



Towards a Popular, Preventative Youth Justice System

by Joe Farrington-Douglas with Lucia Durante

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Institute for Public Policy Research

Challenging ideas – Changing policy

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Executive summary

In 1998 Labour made significant reforms to the youth justice system. A decade later, these have yet to deliver a system which puts crime reduction at its heart. This failure to reduce offending derives at least partly from a determination to bring more offences to justice. This in turn seems to be rooted in the belief, widespread among the public, that the answer is a more punitive approach to offending. Quite simply, this has not worked and the current youth justice system does not reduce offending. This report proposes ways in which it could, as well as ways of creating public confidence in the system. It includes proposals for early intervention for preventative purposes, as well as for the extension of the system to some of those in the 18-21 age group.

Youth crime: an unsolved problem

Most young people are law-abiding. But some commit crime. A smaller number become severe and repeat offenders. While crime overall has fallen, the proportion of crime committed by young people is likely to be rising. Public concern over crime involving young people – whether recent high-profile knife crimes, or general concern over anti-social street behaviour – is also rising. And continuing media attention creates a climate in which politicians still feel under pressure to introduce tough looking, but often ineffective, and even counter-productive, schemes to combat crime among young people. In spite of this, the public does not know much about the criminal justice system, and their confidence in it is low.

The behaviour of young people reflects a wider set of challenges about the transition to adulthood in contemporary society. Youth offending continues to have severe social consequences, for its victims, their communities, and for offenders themselves. It remains a particular problem in disadvantaged areas. And significantly, the small number of prolific offenders who cause significant crime and concern overwhelmingly come from poorer backgrounds.

Current policy is not working

We know what has not worked from the policies of the last 10 years. ‘Coercive’ approaches that aim to deter offenders through tough sanctions tend not to work. Targets aimed at reducing offending by targeting offenders (the ‘offences brought to justice’ [OBTJ] targets) have encouraged a greater focus of police and the courts on young offenders. Probably as a consequence, we have seen increases in the number of young people drawn into the youth justice system for less serious offending. As more minor offenders have been brought in, the ability of the system to tackle future offending has reduced. And all of this has happened at a time of increased media interest in youth crime, combined with stronger competition between political parties on the issue, so that sensible reforms are more difficult to make. The result? The threshold at which young people are drawn into the criminal justice system is now lower, which results in greater numbers being processed through police stations and courts, and also rising numbers in custody.

This process is known to have some perverse effects. Arresting young people does not tend to stop them reoffending – in fact the reverse may be the case – and putting children in prison can be very damaging.

The increase in the numbers charged and punished also increases public anxiety about youth offending, and may perversely contribute to yet more punitive, and yet more counter-productive, policymaking. In the mean time, as the police pursue the OBTJ targets, the target for reducing re-offending has not been met.

A new moment for reform?

Despite this, behind Labour’s drives for toughness a more effective, more progressive strand to its youth offending policy can clearly be seen and may even be gaining ground. The 1998 reforms aimed to put prevention of crime at the heart of youth justice. The Government has also recognised that some of its tough targets were not working, and changed them. Giving the Department for Children, Schools and Families responsibility for youth justice jointly with the Ministry of Justice helped to place

the welfare of young people more firmly on the youth justice agenda. The Children's Plan contained a range of measures to help young people avoid crime, including a new focus on positive, structured activities. The Youth Crime Action Plan toned down the rhetoric, and introduced a range of helpful measures to improve the system¹. And, just as importantly, the Conservative party is moving towards views on crime and youth justice that are more in line with the evidence of what does and does not work.

This combination of a more enlightened approach from the Government and a new approach from the Conservatives suggests that a new moment for reform might be possible. All parties should take advantage of this: the prevention of youth crime, and the development of effective measures to help some young people away from a life of crime, should be top priorities for any party professing to care about a just society.

A new approach can prevent youth crime

This report recommends an approach which is similar to that in Scotland in being *preventative*, *tiered*, and *diversionary*.

In previous reports², ippr has made recommendations which stress *prevention* and a new focus on youth work. We believe that more can be done in the way of removing the causes of offending in local communities if those communities are empowered to do so: so our proposals include measures to prevent offending as well as dealing with it after it has occurred. These measures should be entrusted to local partnerships, probably with schools at their heart.

We also argue that responses to youth misbehaviour should be graduated so as to be proportionate at each level of offending and start early, as soon as the first signs that young people are at risk of offending appear. We do not believe that the present system differs sufficiently in the ways it addresses low-level, occasional anti-social behaviour and offending from the way it deals with serious or persistent offending. A new system should be *tiered*, starting with preventative measures taken even with very early signs of offending behaviour and reaching up to measures appropriate to young people beyond the present cut-off of 17.

The measures proposed are *diversionary* because they provide for a much higher proportion of young people who misbehave to be dealt with other than through arrest and the criminal courts system.

They involve the creation of a number of new institutions, broadly aimed at empowering the community, using restorative justice principles and dealing with non-serious offending other than through arrest. They also propose an alternative form of Scottish-style civil youth court, again aimed at reducing the number of young people who go through the criminal courts system, and make suggestions as to how the existing (criminal) youth courts can be made more effective and focused more closely on the aim of reducing offending.

Careful communication can build public support

Much of this will be politically impracticable unless the public can be brought to believe that the increased focus on prevention and on methods alternative to the criminal courts is actually an appropriate response to youth offending. Many of the public currently hold almost exactly the opposite view. Is it possible to change this?

ippr conducted three workshops with members of the public to test the approach advocated by this report. These confirmed that many members of the public retain a view that youth crime requires a punitive response. However, by the end of each workshop, once participants had been shown case studies, they preferred a more progressive approach, and were more willing to want to support and

1. These youth justice reforms only apply to under-18s. They have not affected young persons over 18, who are treated as adults.

2. *Freedom's Orphans* and *Make Me a Criminal*; see www.ippr.org/publicationsandreports

help offenders. In deciding how the offence should be tackled, the participants were able to take into account offenders' difficult home lives, their age and whether they had previous convictions. It has been observed that restorative justice procedures can have the same effect, as would, we hope, our proposal for community involvement in low-level misbehaviour.

These findings suggests that there is in fact room for a middle way based on non-criminal approaches to non-severe youth crime, if presented in the right way. There remains a need to be seen to be 'tough' on severe crimes. However, people can recognise that there are different levels of severity of crimes, and politicians and policymakers should emphasise the need for approaches that are appropriate to different circumstances.

1. Introduction – why we need a new approach to youth justice

Whether it is the recent spate of urban stabbings, the ‘gang’ shootings in 2007, widespread concerns about binge drinking or the latest fly-on-the-wall television documentary about ‘feral youth’, preoccupation with the behaviour of our young people is a recurrent feature of our culture.

But despite political and media concern, Britain is not in a state of anarchy. The risk of being a victim of crime has fallen in the past decade and a half, from two in five in 1995 to one in four in 2007 (Home Office 2007b). Most young people are law-abiding, and the majority of those who do break the law do so rarely. Overall the number of young people breaking the law is not increasing (Wilson *et al* 2006).

Youth offending is known to have complex causes. Decades of criminological research show clearly that offending behaviour correlates with a range of social problems that reflect the conflicts and tensions of growing up in modern society. High levels of offending are in the first instance related closely to the problems associated with poverty and social exclusion, and this argument should not be neglected when debating youth crime. But offending is also bound up with problems of growing up, including family conflict, over-crowding in the home, and poor cognitive and non-cognitive skills as well as communication or behavioural problems.

A problem that persists

That said, youth offending³ is a real problem, and one that badly needs real solutions, for a number of reasons. Crime and fear of crime have a big impact on people’s everyday lives, particularly in disadvantaged communities. Ordinary families and communities should be able to live peacefully without fear of crime or anti-social behaviour, but people from households on low incomes are four times more likely to feel unsafe walking alone after dark than better-off households. Young people from disadvantaged communities are most likely to be victims of violent crime, which has harmful impacts on their future life chances (Dixon *et al* 2006).

While youth offending has not increased, young people may be involved in types of crime which cause particular concern. There are particular problems with high-profile, severe kinds of violence, caused by the greater availability of firearms, increasing (and self-perpetuating) trends of knife-carrying, and in some areas more delinquent groups of youths and organised gangs, who exploit younger children as runners and dealers (Pearce 2007). Moreover, there has been an increasing concern with anti-social behaviour – non-criminal nuisances and groups of youths gathering in public spaces, or low-level crime such as graffiti and vandalism – all of which, again, often involve young people.

Similarly, while actual rates of youth offending rates may not have increased, in the context of declining total crime rates they are now likely to form a greater proportion of total crime. Although research suggests that public perception of the proportion of total crime that is attributable to youth is exaggerated (Hough and Roberts 1999), the decline in acquisitive crimes (as opposed to crimes against the person) since the mid-1990s may inevitably mean that youth crime becomes more visible and a greater cause of concern. Increasing surveillance, especially by CCTV, may exacerbate this.

It is also true that youth offending, connected as it is known to be with inequality, will be particularly difficult to reduce in a period when social mobility is in decline and child poverty is once more increasing. The quest to tackle the social problems that are caused by, and the causes of, youth offending should remain central to the progressive mission.

3. We define ‘youth’ more broadly than the narrow designation of under 18. This will be addressed in more detail in Chapter 3

Social attitudes remain in favour of punitive approaches to youth crime. The public believe that levels of youth crime are high, dangerous and rising. This is part of a more general trend of declining tolerance of kinds of youth behaviour that in the past – and in other countries – have been more accepted. There appears to be a growing divide between society and communities and their young people. As ippr has shown in previous research, a fear of young people is now a major challenge for our society and our politics (Margo *et al* 2006). Intertwined with this perception that our youth are ‘feral’ and that moral standards are declining is that the youth justice system is failing. This popular critique incorporates beliefs that discipline has been lost in families, schools and communities; that young people do not respect the law; that courts are too lenient and that sentences are not punitive enough.

Make me a criminal

ippr’s previous report on youth justice, *Make Me A Criminal* (Margo and Stevens 2008), made the case for a more therapeutic and family-based approach to youth offending, as opposed to the present, more punitive, system. Problems with the current approach, the report argued, include 1) not enough being done at the primary level of intervention to prevent crime before it occurs, to tackle the broader causes of offending; and 2) once an individual is displaying risk factors, or has committed an anti-social act, the nature of the intervention is not directed sufficiently at preventing that behaviour from being repeated; instead it is based more on empty punishments.

On primary prevention the report recommended:

- Banning parents from any form of physical punishment of children.
- Providing structured extra-curricular activities for all young people in every local area, with funding sources consolidated into one fund.
- Diverting the £80 million that the Ministry of Defence spends each year on the Combined Cadet Forces (CCF), mainly in independent schools, either to funding CCF units in schools in deprived areas, or continuing to fund only those CCF units in independent schools that attract a certain amount of attendance (say a minimum of 50 per cent) by children at state schools in deprived areas.
- Investment by the Government in a new programme of supervised play areas in disadvantaged, urban areas. These would be staffed adventure play parks, integrated with structured activity (for example, in parks outside Children’s Centres and Youth Hubs).
- Make changes to planning and regulation policy to help support a richer variety of public spaces and places where people can meet.

- Promote the active engagement of adults in maintaining civic order in their local areas through measures such as expanded use of ‘Face the public’ sessions initiated by the Government’s *Respect Action Plan*, and encouraging schools to set up parent groups to mutually agree on rules for children.
- Employ ‘welfare teams’ in local authorities, comprised of at least one child psychologist, a child psychiatrist, a family worker, a counsellor and a school nurse to undertake school visits.

On secondary prevention, the report recommended:

- Introduction by government of a new Sure Start Plus service for at-risk 5–12s, an extension of the scheme of the same name currently being piloted with teenage parents and their children.
- Offering cognitive behavioural therapy through Sure Start Plus to address impulsiveness and other personality traits that lead to criminal activity, multisystemic therapy for those with the most complex needs, intensive education interventions for those with poor literacy attainment, and targeted parenting programmes such as functional family therapy.
- Not using Anti-Social Behaviour Orders (ASBOs) on children younger than 12 unless accompanied by Family or Parenting Orders. Instead, Family and Parenting Orders should be used to improve the family context in which the behaviour occurs, or to ensure appropriate care for the child in extreme situations, such as foster care or additional service support for the family.
- Using Individual Support Orders where appropriate, alongside Family and Parenting Orders, to target the social context in which offending occurs – in other words, to direct children to purposeful activities in the local area and ensure their attendance.
- Scaling back ASBOs for older children under 18, from the current 2- to 10-year limit to 6 to 24 months.

The two sides to government youth policy

It was, apparently, Prime Minister Gordon Brown who coined the famous soundbite attributed to his predecessor Tony Blair, 'Tough on crime, tough on the causes of crime.' While being politically astute, this double-sided tactic anticipated a problem which today sits at the heart of the Government's overall approach to youth and crime. The last decade has seen two contradictory approaches to reform. On the one hand there has been a strong emphasis on tackling child poverty and social exclusion, and a set of reforms to attempt to create a youth justice system aimed at the *prevention* of offending. Yet on the other, there have been measures to further a *punitive* agenda, particularly in relation to criminal justice.

This approach reflects contradictory impulses in policy. At one end of the scale is an emphasis on victims, a belief in deterrence, and a tendency to believe in tough retributive policies and the 'respect agenda'. At the other, there is a non-interventionist discourse that argues that delinquency is an inevitable part of growing up and therefore should be tolerated because most young people grow out of crime.

In policy terms, this split approach was evident as far back as the 1997 general election campaign, in which youth justice played an important role. The then-opposition Labour party pledged to speed up youth justice proceedings, thus reducing the amount of time young offenders (and victims and communities) had to wait between charge and sentencing. This pledge was swiftly followed by more comprehensive reforms announced in 1998, setting up the Youth Justice Board and local multi-agency 'youth offending teams' focused on tackling the causal factors associated with youth offending, in terms of both prevention and rehabilitation (Home Office 1998). These reforms aimed to define the goal of the whole youth justice system as being about effective, evidence-based crime reduction.

Later reforms introduced restorative justice into the youth justice system for the majority of first convictions. These reforms were based on highly-regarded research by the Audit Commission (1996) and have been lauded by international commentators as an exemplar in evidence-based crime reduction (Waller 2006). An Engaging Communities in Criminal Justice Green Paper is also due in 2009, which is aimed at giving communities more of a say in the wider justice system.

A number of positive policies have also been introduced which impact youth offending from a broader perspective. These range from targets to reduce child poverty and tackle youth unemployment to education reforms and the creation of children's trusts and the Department for Children, Schools and Families' Every Child Matters agenda. The highest profile innovation has been the establishment of Sure Start schemes, first in deprived and then in all areas, providing multi-agency support to parents and young children. More recently, initiatives have focused on improving facilities for youth and set an ambitious agenda for growing up in Britain (DCSF 2005, 2007a).

However a contrary approach was also evident, based on punitive rather than preventative policy. The child welfare-centred Every Child Matters agenda (HM Government 2003) has been balanced out by a punitive Respect agenda (HM Government 2006, Casey 2008) that – in rhetoric and in policy – prioritises highlighting the role of children and young people in anti-social behaviour. The cliff edge of the 18th birthday, when the remit of the youth justice system ends and youths in transition to adulthood are abandoned to be dealt with by the adult criminal justice system, with less focus on diversion and rehabilitation, is a significant issue too (Barrow Cadbury Commission on Young Adults and the Criminal Justice System, 2005).

One of the clearest manifestations of the punitive agenda appeared in the adoption of PSA targets intended to reassure the public that offending was being dealt with firmly. In particular the 'offenders brought to justice' (OBTJ) target, together with the ending of multiple cautioning have had the effect of bringing young people into the criminal justice system who in the past would not have been there. In many areas there has been a greater number of young people going through the courts, along with higher rates of incarceration. Government attempts to introduce processes and measures based on the effective prevention of future offending have been only partially successful. Targets to reduce re-offending have been missed as the flow of less severe offenders into the criminal justice system has

increased. The new machinery of youth justice and youth offending teams, often overlying, rather than replacing, the existing structures of police, courts and prisons, has failed to turn around the dominant approach of catching and punishing young people through the criminal justice system.

This has had two quite different but equally damaging results. First, the increase of young people involved with the criminal justice system is not likely to reduce reoffending. Both involvement with the police and courts, and (even more) incarceration have been shown to be at best neutral and at worst damaging. Consequently the targets to reduce re-offending have not been met, and enforcement of OBTJ targets have made a significant contribution to this failure. Despite progress there has been a rapid increase in the criminalisation of young people, growing custody populations and – consequently – a failure of the youth and young adult criminal justice system to reduce real re-offending rates.

Secondly, the apparent increase in youth offending resulting from more arrests and prosecutions and a growing number of children in custody are likely to heighten rather than reduce public anxiety and therefore distrust in the criminal justice system.

Ten years on, it is time to step back and take stock of progress. We need to recognise and highlight the successes in reducing overall crime, setting up an infrastructure of youth offending teams and introducing innovations such as restorative referral orders. However, we also need to ask challenging questions about the divergent directions in the Government's approach to youth crime.

A new moment for change?

The Government's record over the last decade is thus a mixed one. But there are two reasons to think that the time may be right for a further, major rethink of the way in which the youth justice system works in England and Wales. First, as suggested above, the Government has recently taken a number of steps to push youth justice policy away from punitive approaches. The creation of the Department for Children, Schools and Families (DSCF) in 2007, with its strong focus on children and young people's wellbeing, helped to place the needs of young people more centrally within government. The decision by its Secretary of State, Ed Balls, to close down the Respect Taskforce – spiritual home of

Talking tough

The risk of a return to the tough-but-ineffective policies of the past is never far away. In frontline politics, Labour consistently plays the 'demonising youth' card. Despite the best attempts of some political leaders to de-escalate rhetoric, recent by-election campaigns have been fought (and lost) using penal populist rhetoric and Cabinet ministers arguing for greater use of custody and harassment.

Some examples of this rhetoric:

Tamsin Dunwoody wants the police to harass jobs, and 'get in their faces'. She said: 'There's a lot of talk about human rights, for me the most important human right is to feel safe in your home and community.'

(From Crewe and Nantwich Labour Party website: www.creweandnantwichlabour.org.uk)

'As an MSP, I was proud to lead Labour's laws to crack down on anti-social behaviour... Anyone who carries a lethal blade on the streets of the East End should go to jail. If the SNP won't support these plans I will.'

(Margaret Curran MSP, from the 'Margaret Curran for Glasgow East' campaign website, www.eastendlabour.org.uk)

'The bulk of those young people who are put into custody are aged 16 and 17 – they are not children; they are often large, unpleasant thugs, and they are frightening to the public. In my judgment, the courts have been quite right to ensure that they are locked up, and locked up for a long time where they have committed grievous offences.'

(Rt Hon Jack Straw MP, Justice Secretary, House of Commons, 2008)

'There is no let-up in tackling antisocial behaviour. We know that getting in early to stop troublemakers works, but I want stronger action to deal with persistent offenders. I want police and local agencies to focus on them by giving them a taste of their own medicine: daily visits, repeated warnings and relentless filming of offenders to create an environment where there is nowhere to hide.'

(Rt Hon Jacqui Smith MP, Home Secretary, 2008)

tough-sounding crime policies – and replace it with a new Youth Taskforce designed to improve young people’s outcomes was a clear sign of intent.

In turn this was followed by a marked change of emphasis in the form of DCSF’s 2007 Children’s Plan. It set out ways in which state services aimed at children should begin to work better together to prevent crime involving young people, allocated £66 million to tackle those most at risk of offending, and it introduced new pilots of restorative approaches to youth offending (DCSF 2007). This vision was further developed in the Youth Crime Action Plan published in 2008. This included balancing the use of ASBOs with more Parenting Orders, moving to expand provision of facilities for young people, and introducing reforms to the way young people in custody are treated. It also developed potentially preventative measures, including expanding partnerships between schools and the police, and moved forward on introducing new ways of engaging the public with reparations young people make to the community (HM Government 2008). Although the Youth Crime Action Plan stopped short of the being the type of wholesale reform we propose in this paper (and did nothing for young people over 18, who are still developing into adults but who are beyond the DCSF remit), it was definitely a step in the right direction.

Second, and perhaps more importantly, the Conservatives now seem to be developing a new range of ideas in this area. David Cameron’s speech on the social causes of youth anti-social behaviour was a decisive step in moving his party away from previous ‘tough on crime’ approaches – and was unfortunately criticised by Labour politicians as being about ‘hugging a hoodie’. Cameron’s changed political approach has been equally significant, moving from criticising the Government for being soft on crime to a new argument that the causes of crime remain untackled. Influenced by reports from former Conservative leader Iain Duncan Smith’s Centre for Social Justice, the new Conservative approach has often focused on the underlying causes of crime. Indeed, the *Tackling Family Breakdown to Prevent Youth Crime* report’s main argument – that ‘the Government has got the balance wrong; all its energies are directed at punishing those whose lives are products of a fractured society without tackling the causes of crime in a holistic way’ (Duncan Smith 2007) – marks a hopeful change of tone and direction.

Too much can be made of this, of course. Under former Conservative Shadow Home Secretary David Davies the dominant Conservative approach – sometimes described as the ‘Howard Consensus’ – still emphasised the need for tougher sentencing, and expressed confidence in the use of the criminal justice and prison systems to achieve outcomes. Press coverage of a more recent Centre for Social Justice report on gangs involved some talk of the need for ‘clips around the ear’. Nonetheless it is clear that the Conservatives have become more open to taking a new approach, and are today more willing to consider reforms that could move the youth justice system towards preventing crime and tackling its causes. In combination with a newly enlightened approach from government, this might just be enough to create a political moment.

2. A tale of two targets – why a new approach is needed

Chapter 1 noted that policies and attempts to set out a new approach to youth justice based on effectiveness have often been undermined by punitive measures that do little to reduce future offending. This chapter illustrates this battle of goals through a tale of two headline Government targets: first, the target to bring more offences to justice; and second, the target to reduce the number of young re-offenders.

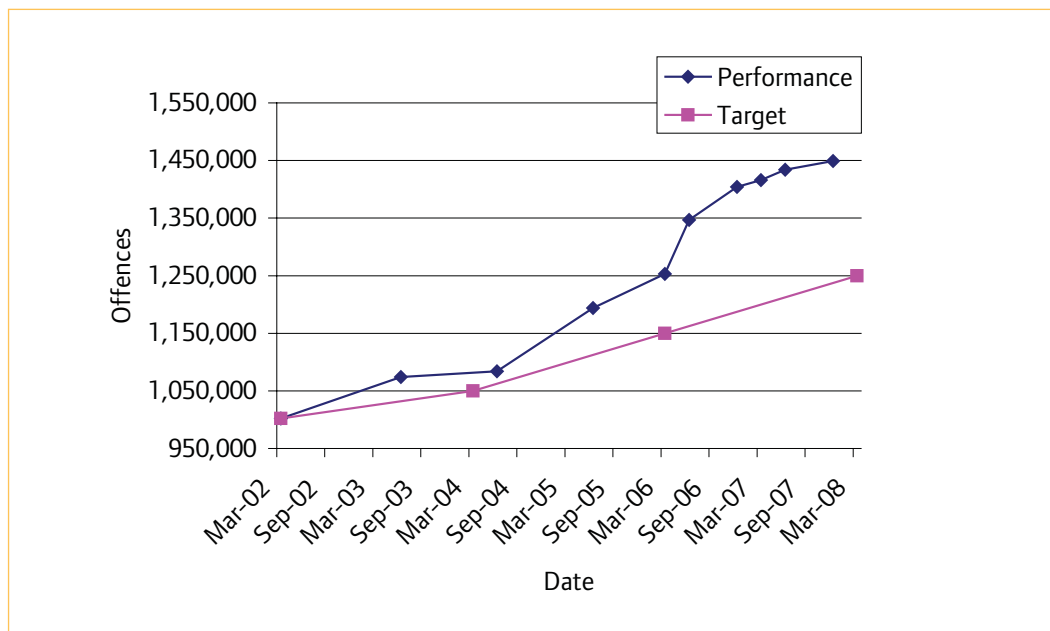
Bringing more offenders to justice

In 2002 the Home Office was set a Public Service Agreement (PSA) target to ‘improve the delivery of justice by increasing the number of crimes for which an offender is brought to justice to 1.25 million by 2007-08.’ This has been commonly known as the ‘offences brought to justice’, or OBTJ, target. The OBTJ target required an increase in the number of disposals⁴ dealt out by the justice system – and in the overall volume of offences recorded. This was a simpler solution than a target focusing on increasing the proportion of recorded crimes resulting in a conviction, which could have created a conflict of interest for the police who would be penalised for recording difficult-to-solve crimes. However the focus on volume created additional incentives for the police to record more minor offences⁵ and arrest young people for them – particularly those that would be easy to be ‘brought to justice.’ The target changed the measure by which local delivery organisations would be judged. It set the bar at a challenging level – an increase of 200,000 offences, around 20 per cent, in five years. This provided incentives for local delivery organisations, in particular the police, to reduce the threshold for recording offences and arresting offenders.

The result of this target has been that the number of offences brought to justice rose sharply from 1.02 million in 2002 when the target was set, to 1.45 million in the year to December 2007, an increase of 45 per cent. The target was declared as ‘ahead’ of delivery (Home Office 2007a). So the target has been very effective at mobilising action by the criminal justice agencies. In particular, the police have responded robustly, their incentive simply to make more arrests.

Figure 2.1.
Offences brought to justice, 2002-2008

Source: Criminal Justice System for England and Wales, 2008



4. ‘Disposal’ means the options open to a criminal court on sentencing, e.g. custody, community sentence, caution, discharge

5. ‘Minor’ offences would include, for example, graffiti, noise offences, verbal harassment, possession of class C drugs, minor criminal damage, playground fight

However this trend has had consequences reaching far beyond an increase in criminal sanctions, and in this context especially for young people. The easiest way to increase the number of offences recorded and sanctioned is to concentrate on low-level crime that is easier to detect. In many areas police improved their performance against the target by making more arrests for offences that would previously have been ignored or dealt with informally.

The target focuses on young people

This meant that the OBTJ became a particular problem for youth justice, because the easiest crimes to detect tend to be committed by children, who are also the easiest people to arrest. This has been acknowledged by the National Criminal Justice Board and by Sir Ronny Flanagan’s *Review of Policing: Final Report* (2008):

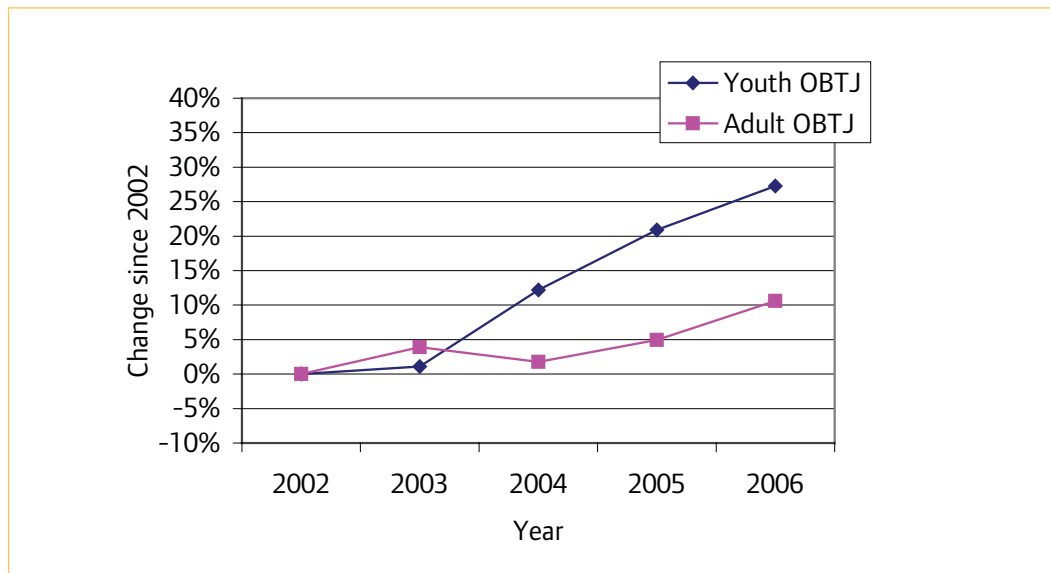
‘An emphasis on sanction-detection levels has undoubtedly to a degree produced the unintended effect of officers spending time investigating crimes with a view to obtaining a detection, even when that is clearly not in the public interest. An example of such would be a low-level playground common assault.’ (Flanagan 2008: 10)

A freedom of information request by ippr investigated this further. We requested a breakdown of offences brought to justice by different age groups. Because of data comparability issues, the information we obtained was not complete, but it illustrates very clearly the differential impact of the target on youths and adults – see Figure 2.2.

Evidence of the trend towards arrests for less serious offending is also brought out in the 2005 re-offending of juveniles data. According to government research, the 2005 cohort of young offenders had fewer risk factors than in 2002 (or indeed 2004): i.e. it was likely to produce fewer offences. The type of violent crime that was ‘brought to justice’ is associated with relatively low levels of re-offending, and 81 per cent of those offenders in 2005 received a pre-court disposal or a first tier penalty, indicating a low level of seriousness. However, the Ministry of Justice reported that the number of juveniles sanctioned for a violent offence rose substantially – from 9,516 in 2004 to 11,285 in 2005.

Figure 2.2. Youth vs adult OBTJ cautions and convictions

Source: ippr



The OBTJ figures have also been affected by new approaches to often non-criminal anti-social behaviour. Some of the increase in the number of young people convicted is as a result of breaches of court orders, including anti-social behaviour orders (ASBOs), rather than because more crime is being committed. Breaches of statutory orders increased by 93 per cent from 8,256 in 2002/03 to 15,910 in 2006/07 (Youth Justice Board 2007).

While the overall figures make it look as if a higher proportion of crimes are being solved and offenders punished than before, the actuality is that the threshold for police to make an arrest has been lowered. The police achieved their target by concentrating on the ‘low-hanging fruit’ – who were likely to be children and young adults under 21. Some police forces paid bonuses to officers for re-arresting children as young as 11 years old even when there was no evidence of them having committed a crime.

Increasing numbers of young women are also being brought into the criminal justice system, with a rise of 25 per cent in the number of offences committed by females resulting in a disposal (compared to a 2 per cent drop for males) between 2003/04 and 2006/07 (Youth Justice Board 2007). Since crimes committed by females tend to be less serious than male crimes, this also suggests a lowering of the threshold for intervention.

The very youngest get the most attention

ippr requested figures from the Ministry of Justice to compare the changes in offences brought to justice by age group since the target was introduced in 2002. The results are shown in Table 2.1. This table demonstrates the extent to which younger youths have been disproportionately targeted under the OBTJ target. Our figures show an even faster rise in the increase of under-15s having offences brought to justice – 35 per cent over the period.

Table 2.1. Increase in cautions and convictions 2002-2006

Age group	Increase/change
10–14 years	35%
15–17 years	24%
18–20 years	2%
Over 21 years	13%

Source: ippr analysis of Ministry of Justice data

Although the overall trend has been consistent, the impact of this target has not been universal across the country. There is significant regional variation in the extent to which areas have embraced the goal of criminalisation – see Table 2.2, next page. Our data request from the Ministry of Justice illustrated that while some police authority areas had doubled the number of under-18s brought into the criminal justice system, others had bucked the trend and had focused on alternative approaches to youth offending and anti-social behaviour, for example in Northamptonshire and South Wales. We have included the changes in recorded crime levels to illustrate the fact that increases in criminalisation do not correlate with crime rates.

An ineffective approach to lowering youth crime

The key message from research is that making extra use of the criminal justice system is not normally the best way to stop offending behaviour. The first and most important problem with the high rates of arrest and formal court proceedings brought against minor offenders is that, rather than reducing crime and making communities safer, the current trend of criminalising more young people for more minor offending is likely to create more persistent future offenders (and thus more victims). Home Office research has found that three quarters of young people between 10 and 25 years old are law-abiding. Of the 25 per cent who do offend, 18 per cent are non-frequent offenders, and only one per cent of young people are both serious and frequent offenders (Wilson *et al* 2006). It is not therefore obvious that increasing the number of young people, some indeed very young, who encounter the criminal justice system is necessary in order to reduce high levels of offending. And in fact it is worse than this, because other research suggests that young people are less likely to desist from crime if they come into contact with the criminal justice system – and that the deeper they get into the system, the less likely they are to give up crime. For example, the Edinburgh Survey of Youth Transitions and Crime (a longitudinal study of children in the city) has found that, other things being equal, contact with the police led to a *reduction* in the probability of a young person desisting from crime (Smith 2006). An older Cambridge University longitudinal survey reached similar conclusions (Farrington 1977 cited in Smith 2006).

Table 2.2. Changes in OBJ and police recorded crime, by police authority, 2002-2006

Police authority	Change in OBJ		Change in police recorded crime
	Youth	Adult	
Cheshire	95%	20%	5%
Sussex	90%	17%	2%
Dorset	81%	28%	-11%
Essex	71%	46%	-7%
Humberside	65%	8%	-15%
Warwickshire	62%	37%	2%
Hertfordshire	61%	49%	6%
Avon and Somerset	61%	12%	-7%
Norfolk	58%	14%	-12%
Leicestershire	57%	26%	-3%
Suffolk	50%	28%	2%
Surrey	50%	20%	8%
Kent	44%	17%	12%
Cleveland	43%	8%	-7%
South Yorkshire	42%	26%	5%
Cambridgeshire	40%	25%	-19%
Nottinghamshire	38%	15%	-15%
Lancashire	36%	15%	4%
Thames Valley	33%	38%	1%
Bedfordshire	32%	23%	-6%
Greater Manchester	30%	16%	-12%
Cumbria	30%	7%	3%
West Yorkshire	29%	18%	-23%
Staffordshire	26%	0%	-4%
Gloucestershire	26%	-10%	-6%
Gwent	25%	-3%	-13%
Dyfed Powys	24%	-5%	20%
West Mercia	22%	18%	-22%
Metropolitan Police	21%	11%	-15%
Derbyshire	20%	0%	-21%
Lincolnshire	19%	19%	-10%
Durham	14%	-2%	4%
Devon and Cornwall	13%	-2%	-5%
Hampshire	12%	6%	18%
Wiltshire	12%	3%	2%
Northumbria	9%	4%	-22%
North Yorkshire	5%	11%	-20%
Merseyside	2%	-14%	-5%
West Midlands	-6%	-7%	-20%
North Wales	-7%	-7%	-18%
South Wales	-21%	-16%	-15%
London, City of	-30%	-23%	-20%
Northamptonshire	-36%	20%	-10%
England and Wales	27%	11%	-9%

Source: ippr analysis of Ministry of Justice data

The Home Office/Ministry of Justice’s own research on re-offending confirms this finding. Although the method of analysis was exploratory, a comparison of the impact of different types of disposal on adjusted re-offending rates found that diversion (ways of dealing with crime that avoided contact with the criminal justice system) and first tier disposals (mainly referral to youth offending panels) were more effective than court community sentences or custody (Medhurst and Cunliffe 2007). Similarly, a comparison of reconviction rates in a study in Northamptonshire found that prosecution was less effective than cautioning or referral to a ‘diversion unit’ (a team working with repeat offenders by bringing together social services, probation officers, the police and youth services, along with health and education professionals) (Kemp *et al* 2002). Other approaches, particularly types of restorative justice in the community, have been found to be even more effective (Sherman and Strang 2007).

The current approach as a whole tends to be unsuccessful in tackling the real problem – the problem of offending, and its impact on victims. The OBTJ target, and the incentive it creates for police to target minor youth delinquents, has led to an increase in the number of young people entering the youth justice system for the first time. This is despite some recent success with a separate (non-PSA) target for the Youth Justice Board in reducing the number of first-time entrants to the youth justice system.

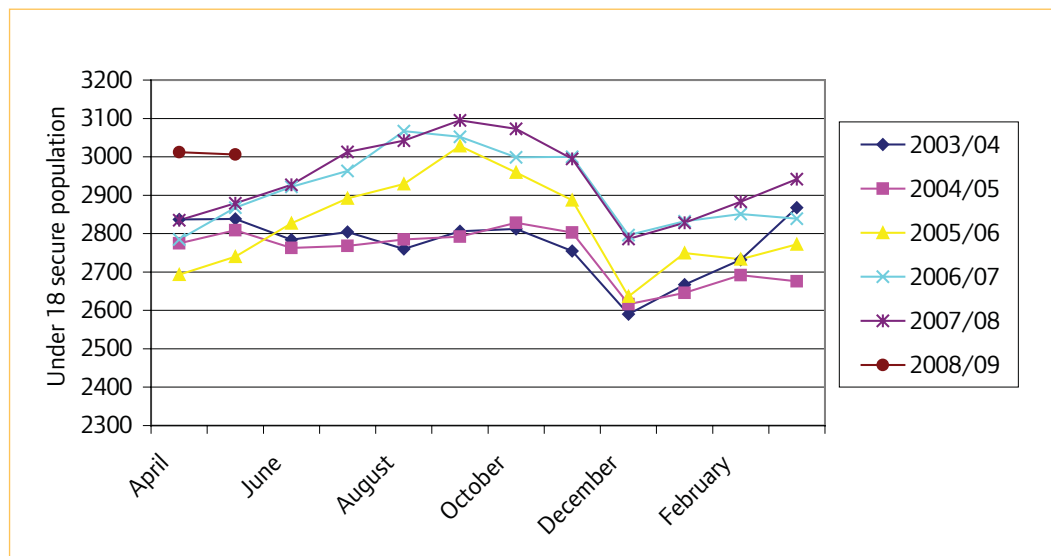
Further, short-term problems with the OBTJ target

Our primary criticism of the offences brought to justice target is that it has encouraged authorities to bring too many young people into the criminal justice system. However, there are more short-term problems associated with the target as well.

First, the target reduced the efficiency of the criminal justice system. Like any system with limited resources, the criminal justice system needs to make sure it allocates resources efficiently. As a result of the OBTJ target, the police and justice system are wasting scarce resources on arresting minor offenders and bringing minor offences to court (although recent changes have aimed to counter this effect) (Dixon *et al* 2006).

Second, the effect of the target was exacerbated by the limit, introduced in 1998, on the number of cautions individuals can receive before they are automatically referred to court. Thereafter, a ‘vertical tariff’ system means that young offenders are escalated towards a custodial sentence. Despite targets for the Youth Justice Board to reduce the number of young people in custody each year, the impact of the OBTJ target has meant that a greater number of young people are ending up in detention. At the same time there has been pressure on courts to give out tougher sentences, and while the proportion of minor sentences has increased, the aggregate effect of all these factors – designed to reassure the public that the system is ‘tough’ – has been to increase the youth custody population by 6 per cent since 2003/04, against a target of a 10 per cent *reduction* by 2007/08 (Youth Justice Board 2007); see Figure 2.3.

Figure 2.3.
Youth custody since 2003
 Source: Youth Justice Board 2008



Third, the target undermined the business case for prevention, that ‘an ounce of prevention is worth a pound of cure’ (Waller 2006). This, as set out in the Audit Commission’s 2004 report *Youth Justice*, is based on investment in effective interventions which minimise the factors known to be likely causes of offending – including behavioural problems at school, exclusion from education, lack of role models, insecure care or substance misuse. These interventions result in fewer young people becoming offenders and thus avoid the costs of policing, courts, community sentences and custody. In order to implement this approach, for example, the Youth Justice Board has begun to spend an additional £45 million on prevention programmes.

However, the financial savings from a preventative approach can only be realised if the threshold for formal intervention by the criminal justice system remains relatively constant, so that lower levels of offending in the future lead to cost savings. But the impact of the OBTJ target on the approach to minor young offenders has meant that the threshold for formal intervention – which imposes costs on the criminal justice system budget – has been progressively lowered. Unless the continual lowering of that threshold is abated, public money invested in prevention will not lead to savings in the future and the business case for prevention will be undermined.

Fourth, the effect of increasing criminalisation is to damage the life prospects of young people, many of whom are already vulnerable. These effects include short-term impacts as young people are stigmatised as being anti-social or criminal, particularly when individuals are regularly stopped and re-arrested on suspicion, without evidence linking them to a crime. They may also include damage to their education because if their school finds out that they are in trouble with the police, children may be excluded. Unspent convictions, even for trivial offences, can also prevent young people from developing their career prospects and thus have long-term consequences for their life chances.

Recent changes to youth justice targets

Changes to youth justice targets have been announced recently. In order to counter the danger of incentivising police to neglect serious crime (particularly severe violence and sexual offences) in favour of targeting low-level offending, three tiers of targets were introduced in 2007 to replace the single target, with an objective of increasing the numbers brought to justice for each tier. The Youth Justice Board *Annual Workload Data 2007/8* publication suggests some progress. It says that ‘This year’s data reveals that there were 17,143 fewer crimes committed by young people resulting in a disposal – a 5.8% decrease in comparison with 2006/07. A similar downward trend shows that the number of young people entering the youth justice system has also fallen over the last three years by a total of 10%’. The YJB adds that ‘the work of youth inclusion programmes and the support delivered to young people and their parents by YOTs – has contributed to this achievement’ (Youth Justice Board 2009).

In itself this is welcome, and the target changes serve a useful purpose. However, it is insufficient to reverse the trend of criminalisation of young people for non-serious offending. Even with the three tiers, there is still a target – in the lowest tier – to bring a greater number of non-severe young offenders to justice. There are also potential incentives to adjust the tier of an offence where it is near the border of the next tier, and to target ‘low-hanging fruit’ at the bottom of each tier. It is far from clear that the change in the target will have a significant impact on the trends outlined above, and is likely to fail to reverse the impetus for the police and justice system to take a formal, criminal justice approach to all offending, irrespective of the severity of the crime or age of the person involved.

Targets on reducing re-offending

In 2002 the Home Office was set a Public Service Agreement target to reduce re-offending for young offenders by 5 per cent between 2000 and 2006. There is a longer-term target to reduce re-offending by 10 per cent by the end of 2009. This target is delegated to the Youth Justice Board for young offenders and the National Offender Management Service for adults. This PSA target was reported in the Home Office 2007 Annual Report as ‘slipping’, against a fairly un-ambitious goal, and was quietly ‘replaced’ by an alternative measure that fails to reflect the true performance of the system.

The reforms to youth justice introduced in 1998 made crime reduction their core aim. Re-offending

statistics are particularly high for some young offenders, particularly those who receive custodial sentences, where the proven re-offending rate was over 75 per cent (Medhurst and Cunliffe 2007), excluding, of course, undetected or unproven offending. Therefore, focusing the system on the aim of reducing re-offending was key to the new approach. Until recently changes, youth re-offending was measured by the percentage of young people who received a disposal from the justice system during January to March each year and who then received another disposal for a crime committed during the following year.

The original PSA target was not based on the overall rate of re-offending, as this would not take into account the changes in the characteristics of the cohort of ex-offenders, who may be more or less likely to re-offend. Therefore the Home Office (now the Ministry of Justice) commissioned statistical analysis to calculate a rate of re-offending that would be predicted if the annual cohort were identical with the cohort of 2000 (the baseline year) – that is, contained a population of individuals with the same likelihood of re-offending.

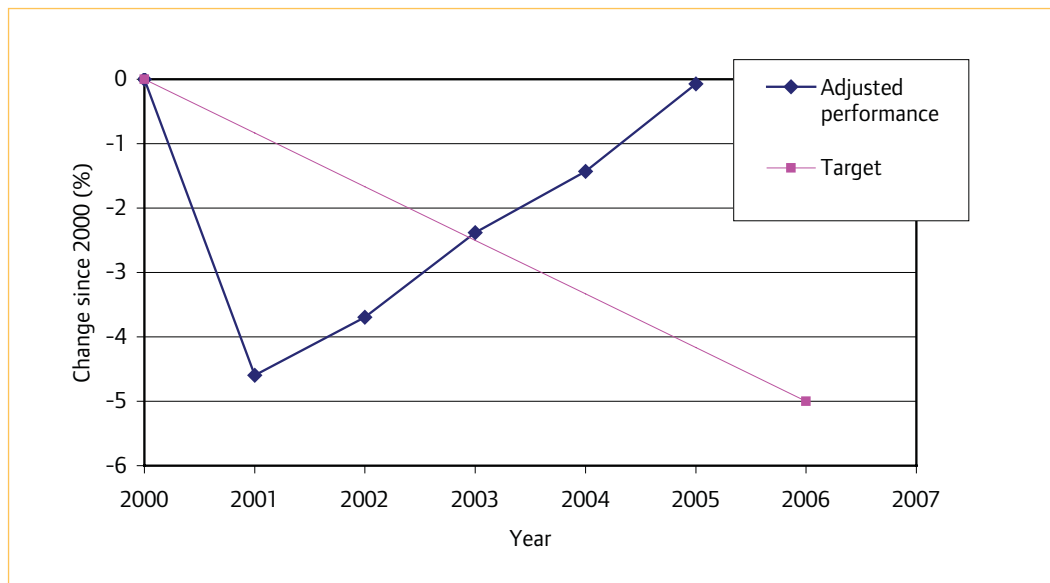
The target set in 2002 was to reduce the rate of reoffending by 5 per cent, after adjustment by comparison with the 2000 cohort. The unadjusted rate of re-offending for the first quarter of 2005 (published in July 2007) was 40.81 per cent. The predicted rate was 40.83: much lower than the actual rate for 2000 because the population of offenders now included more people convicted of relatively minor crimes and was, therefore, overall less likely to produce repeat offences. In other words the reduction (0.02 per cent) was insignificant.

However, the measure has now changed so that it is now no longer adjusted to predicted 2000 levels. Since the actual level for 2000 (with a cohort much more likely to reoffend) was 43.3 per cent, this produces an apparent decrease of 2.49.

Figure 2.4. Youth re-offending performance (adjusted, compared with 2000 rate)

Source: Home Office/ Ministry of Justice data, ippr analysis

Note: the methodology of the measurement changed for the 2004 cohort and for the baseline, so all points represent the published performance compared with the published baseline



Re-offending is going in the wrong direction

Thus, unlike the OBTJ target, the re-offending target has failed to reverse past trends. While of course the marginal reduction in unadjusted re-offending since 2000 is to be welcomed – and new alternatives to custody have been introduced which have had a positive effect on re-offending – the adjusted change is statistically insignificant. The contrasting stories of the OBTJ target (over-achievement leading to the criminalisation of thousands of young people for more minor offences) and the re-offending target (a negative trend reflecting the increasing flow of more minor offenders into the system) illustrate our conclusion that the current Government has failed to achieve the necessary shift towards a crime-reduction approach, and that the ineffective criminalise-and-punish paradigm has dominated. We believe that reducing re-offending will remain unachievable until crime reduction, rather than the prosecution of crime, becomes the main focus of the whole youth justice system.

Like the OBTJ target, the re-offending target has recently changed. Ostensibly this was to address problems with the way the target failed to provide a sensitive measure of the impact of offences: it only measured whether or not an offender was re-convicted within one year of his or her previous disposal, and did not take into account either frequency or severity of offending. In the 2007 Comprehensive Spending Review a new measure was announced that would calculate re-offending on the basis of the number and impact of re-offences that were taken into account, rather than just a binary pass/fail measure where, for example, a single cannabis possession counted the same as homicide.

However, the new measures, while providing a more sophisticated measure of re-offending, removed the 'risk-adjustment' aspect of the original target. This has passed relatively unchallenged, but amounts in practice to the replacement of a failing target just before it was due to be measured. The fact that the new measure does not take into account the risk profile of the cohort reverses the logic on which the original measure was based. In effect, it makes the target easier to achieve, because, as explained, the effect of the OBTJ target has been to make each year's cohort less likely to re-offend.

Summary

This tale of two targets illustrates the broader history of the Government's youth justice reforms. Although levels of youth offending have not increased (Wilson *et al* 2006, Phillips and Chamberlain 2006), the threshold for bringing youth delinquent behaviour into the formal justice system has been lowered, resulting in an increase in prosecutions and convictions. While there have been green shoots of a progressive approach based on tackling the causes of future offending, on balance the Government has failed to achieve a real shift away from criminalisation. Significant progress in reducing re-offending, a key aim for the youth justice system, will remain elusive without a whole-system paradigm shift towards a shared aim of crime reduction. Recent changes to these targets have focused on a superficial problem – the measures by which they are calculated – rather than seeing the targets themselves as the problem. As this report argues, now is the time to find ways of reversing the existing trend and diverting minor offenders from the criminal justice system.

It is right that there should be an overall aim to close the 'justice gap' for severe offenders where there is a need to protect the public and achieve retribution for victims and society. However, for young people who commit a small number of minor offences, the formal justice route is generally not the best way to encourage them to desist from offending. And the perverse consequence of so-called zero-tolerance approaches to policing youth offending, which is to bring more minor offenders into the justice system, is that there will be more future victims of crime.

3. Objectives, barriers to, and new principles of youth justice

The youth justice reforms of the last decade have left us with an over-reliance on criminalising children and young people and a linked and partly consequent failure to focus on reducing future offending. We need a system that has such a focus, but at present there are still obstacles to achieving this. These are, in particular, structural, institutional barriers and cultural and political problems including low levels of public trust in the authorities to deliver justice.

In this chapter we propose principles for future reforms that will achieve the change we need. These principles should ensure that a new approach has a structure that is preventative. The new youth justice system should also promote more community involvement – both to ensure that it builds capacity to change behaviour, and also to improve trust in the system. The fact that there is a need for higher levels of public confidence before the system can be effective underlines the importance of community involvement. The system should also respond in ways more precisely targeted at the nature and level of behaviour which are of concern.

Which interventions work in preventing offending?

There is an extensive literature on the impacts of different interventions on future offending. This literature has also been extensively reviewed. ippr's report on preventing offending, *Make Me A Criminal* (Margo and Stevens 2008), summarised the main findings of the literature on 'upstream' policies. A recent review of the literature on children's involvement in crime and anti-social behaviour also summarised the research on re-offending (Prior and Paris 2005), showing two broad categories of approaches – coercive and developmental.

Coercive approaches are intended to deter by imposing sanctions on young people who have offended (Prior and Paris 2005). The tools of coercive approaches include fines, surveillance, curfews and penalties. The authors conclude however that 'the great majority of studies demonstrate that these sanctions either have no impact on re-offending or are associated with an increased level of re-offending.' In particular, they find that 'get tough' approaches appear not to work. Instilling fear in young offenders and threatening 'short, sharp shocks' tends actually to be more harmful than doing nothing (ibid: 36).

This is not of course to deny that there is inevitably going to be some need for interventions, including secure accommodation for dangerous offenders, of which the aim is to protect the public. However even when these are used there can be beneficial effects for re-offending if effective measures are taken to rehabilitate and resettle those offenders dealt with in this way. However, Prior and Paris (ibid) observe that the English and Welsh Detention and Training Orders (DTOs) introduced in 2000 to combine custody with more developmental approaches were not effectively reducing re-offending because there was a lack of resettlement activity – that is, preparing the trainee for return to their community – and limited interventions back at home.

Prior and Paris are more optimistic about the wide category of 'developmental' interventions, which aim at rehabilitation and resettlement of offenders. These include interventions focused on the individual offender but also on broader factors, related to, for example, family, school and community. The authors claim that their review of relevant research suggests that interventions focused on individuals can be successful if they meet strict criteria. These amount to a need to tailor interventions to the particular circumstances of offenders. In particular they must focus on the factors which are most likely to cause the individual to re-offend. This should involve relating the level of intervention to the level of offending, organising interventions in community settings, responding to the general and specific learning styles and needs of potential offenders, tackling multiple needs through multiple services, and developing cognitive, behavioural and inter-personal skills in young people which will help them either not to offend or not to re-offend. Interventions need to have a high standard of planning and management to work well.

Prior and Paris's review of research also finds that interventions focused more broadly on the context of young people's relationships can also be effective, in particular multi-systemic therapy. Behavioural

parent training can be effective, too, in certain conditions. At a school level, environment-focused interventions can be effective, particularly for higher-risk groups such as those who have previously offended. As regards intervention at a community level, there is less academic evidence but some ‘promising’ studies.

However, given what we know about what works, it should remain surprising that the UK – along with other countries (see Garland 2001, Lacey 2008) – is still travelling down a penal populist path that contradicts the evidence. The evidence summarised above is well known and has informed much of frontline practice for the Youth Justice Board. However, as we have shown, the youth justice system has become, on balance, more coercive with more children and young people being criminalised and sent to custody. The question that policymakers face is why? What are the barriers that would need to be overcome to enable a shift in approach?

There are, of course, serious technical difficulties in adopting the developmental strategy. While there seems to be good evidence for what works well and not so well in reducing re-offending rates, the knowledge of what works does not make the implementation of a more effective youth justice system simple. The need to focus interventions on the widely varying circumstances of individual offenders and potential offenders means that there is no one-size-fits-all intervention that can be imposed centrally as the cure for youth crime. There are also problems with bringing successful experiments into general use (in particular since much of the academic research is based on US trials).

Institutional barriers to an effective youth justice system

Beyond the technical complexities, there are more fundamental barriers to the implementation of effective interventions. The problem is that the system and the politics of youth justice fail to cohere around the objective of effective prevention of future offending. This is why we focus in this report on the overall system, rather than on individual interventions. It is also why we will draw on international examples to show how other systems achieve a greater emphasis on preventing future offending.

The system needs to be restructured. In particular, four key barriers to reform must be overcome, by:

- removing conflicting objectives and incentives
- reducing current over-centralisation
- improving local collaboration
- creating alternative routes which allow young people to be dealt with without recourse to the criminal justice system.

Conflicting objectives and incentives

First, different parts of the system do not have shared objectives and are primarily concerned with meeting their own targets. These may work against each other and do not necessarily encourage rationally responding to individual cases with a personalised set of interventions addressing problems in a joined-up way. As discussed in the previous chapter, while youth offending teams and the Youth Justice Board are asked to reduce the number of first-time entrants to the criminal justice system – to encourage them to prevent offending and to target young people at risk of becoming criminals – the police and the criminal justice system have targets to maximise the number of offences brought to justice.

Schools have targets which are intended to maximise exam results, particularly at the C/D grade threshold, rather than improve outcomes for low-level achievers who are more likely to drop out of school and turn to crime, leaving the criminal justice system to pick up the externalised costs of educational failure. Thus schools, like the police, may actually behave in ways calculated to increase rather than decrease offending. Professionals working in different institutions also have divergent values and aims. While youth social workers aim to improve welfare, prosecutors and police can undermine that aim by targeting vulnerable young people for poor behaviour that is easy to identify, drawing them into the criminal system at an earlier age.

Legal objectives can also conflict. The effect of the statutory aim (to focus on reducing reoffending) introduced in 1998 legislation was undermined by the introduction in the Criminal Justice Act 2001 of

a potentially conflicting statutory aim that sentences should be commensurate with the seriousness of the offence rather than focusing on tackling causes.

All these systems can be individually justified but together, they do not add up to a collective drive to attack the causes of offending.

What is particularly concerning is the lack of consideration of the efficiency of the system, with millions being spent on ineffective courts and custodial (or community) sentences while more robust incentives could ensure that resources were targeted towards the overall aim of reducing crime. The lack of institutional coherence is compounded by perverse financial incentives. Custody absorbs the majority of the budget of the Youth Justice Board, but is allocated on the basis of 'demand' from magistrates rather than being strategically commissioned. Institutions which make decisions do not necessarily bear the cost of those decisions.

Too much central control, too little local collaboration

The youth justice system is very centralised, which gives too little scope for local collaboration. The current system of central targets is set by the Treasury and added to at each level of governance, with additional targets for the Youth Justice Board, individual criminal justice areas, police forces, youth offending teams and courts. Professionals at the front line often argue that this approach undermines their professional judgement and makes it more difficult to innovate and pursue local solutions to local problems. The central targets that dominate the youth justice system mean that institutions focus on the demands of the management chain rather than on cooperation and collaboration with other agencies dealing with youths. This is a recipe for division rather than collaboration.

Centralisation can create perverse structural incentives for local organisations. In particular, while prevention and community sentences for young offenders are provided and financed locally by youth offending teams, youth custody is commissioned by the Youth Justice Board centrally, from central funds. This creates a financial incentive for local youth justice systems not to reduce the use of custody because the costs are borne centrally. Local authorities and agencies have almost no say in the billions of pounds that are spent on adult and youth custody (Allen and Stern 2007), but since they do not fund them, there is no incentive to seek better alternatives. Centralisation also contributes to the lack of accountability to local communities and the public's poor level of knowledge about the system, because criminal justice is so far removed from local people.

At the local level, this over-centralisation is made worse by a lack of good-quality information. A survey found that while 99 per cent of magistrates take into account the seriousness of the crime in sentencing decisions, only 58 per cent took account of re-offending rates, despite that being the statutory aim of the youth justice system (Audit Commission 2004). This is in part due to the incentives affecting magistrates, but also to the quality of the information to which they have access. While they have detailed knowledge of the crime from the evidence presented in court, and have some (albeit variable) information from youth offending teams about the offender's background, they have no regular information about the impact of sentencing. There is a similar dearth of feedback to youth offending teams and secure institutions about the impact of the sentences that are given to young people.

Too few alternatives to courts and police

Finally, the current system provides few alternatives to move young people away from the criminal justice system. One barrier to the success of youth justice reforms that will continue to be a problem is the lack of infrastructure and methods to divert young people away from the criminal justice system when they start getting into trouble but before they move on to actual offending behaviour. Many of the children and young people who come into contact with police and the courts already have a range of problems that put them at risk of offending. Yet it is only after arrest that the system starts spending money on them – money that could have been more efficiently spent at an earlier stage, for example through local authority youth services. As the Audit Commission's 'James' case study showed (2004), upstream intervention (that is, intervention before offending starts) could be more effective, but social problems are identified after offending, not before. The criminal justice system has become a gateway to social spending – often too little too late – rather than a last resort. This has been

described as the ‘criminalisation of social policy’. The structure makes it difficult to intervene other than through criminalisation.

Political and public trust barriers to change

In the conflict between coercive and developmental interventions, the cultural pressure – from politics and the media – is to go for the former. There are two main – linked – cultural barriers to change.

Since the mid-’90s the main political parties have tried to outbid each other in the toughness of their response to crime. We do not believe that cultural pressure for ineffective ‘toughness’ is because politicians, voters and the media want to have higher rates of crime as a result of tough-looking but ineffective initiatives: it is because there is a near-universal ‘common sense’, but un-evidenced, belief that tough/coercive approaches are effective. As argued above, research shows that coercive approaches to youth crime are likely to lead to more victims in the future, rather than fewer. Nevertheless, the main parties’ overall approach to youth crime has been to call for more police with greater powers, tougher sentences and more prison places. Finding a place in the mainstream political discourse for arguments against criminalising youth is going to be a challenge for policymakers.

These political barriers reflect to a large extent the mainstream public opinion on youth crime. As our deliberative workshops show (see Chapter 5), the public tend to believe the youth justice system is too ‘soft’ and that there is a lack of controlling power by the police. This reflects broader social attitudes to young people and a deepening fear of youth as discussed in previous ippr research (Margo *et al* 2006). Public attitudes and cultural perceptions of children and young people also link to the causes of youth anti-social behaviour. Communities that have lower perceptions of their ability to change the behaviour of their young people tend to have higher rates of youth crime as well. They are less able to tackle deviance and socialise their young people effectively, and have a greater reliance on law and order institutions – police, courts and prisons – to enforce morals and standards of behaviour.

However, the position is not completely bleak. For instance, researchers have found that people’s preferred sentence for a particular offence is actually ‘softer’ than the average sentence – but they believe that sentences are milder than they actually are. When given more information about a particular case study people tend to be more understanding and less inclined towards punitive responses (for a summary of the evidence on public attitudes see Allen 2006). What this also suggests is that the relative opacity and distance of the criminal justice system from local communities – and its impenetrable language and rules – increase the distance between the system and local communities. As ippr has argued before, the more people understand about the criminal justice system the less they call for punitive responses (Rogers 2005).

This is confirmed by much of the experience of restorative justice. When victims confront offenders (in safe conditions, and with appropriate support), they often end up less enthusiastic for retribution and more understanding of the way the offender has behaved. A typical comment might be: ‘If I had been through the same experiences I might have made similar choices’.

A new, ‘popular preventionist’ approach

In order to overcome the cultural and institutional barriers and achieve a more effective youth justice system with greater democratic and community legitimacy, we argue that there needs to be radical reform of the youth justice system, underpinned by new principles. The new approach would be both progressive, in that it would further social justice and democratic engagement, and preventative, with the aim of reducing crime, while still meeting ‘populist’ objectives. We describe this approach as ‘popular preventionism’.

To understand it, it is first important to understand what the approach rejected. We clearly need to find a way for politicians to let go of what some call ‘penal populism’, or competing to be ‘tough’. However, we do not argue for a purely ‘penal welfarist’ approach, in which the youth justice system focuses exclusively on the needs of offenders.

In the first instance, a reversal of the current approach is not politically realistic in England and Wales. Voters, media and politicians still demand and expect some form of punishment for wrong-doing.

Moreover, it is not clear that an exclusively welfarist approach would be effective. Our interviews with practitioners in Scotland suggested that, within their more needs-based system, the ability to challenge behaviour was an important part of the system. The youth justice system needs to form part of society's laying down of boundaries. From this viewpoint, there is an argument for the justice system as a deterrent for potential offenders. Even if the system effectively tackles the problems leading to offending, the external perception that you can 'get away with' crime could increase the amount of offending. Self-report surveys find that fear of getting caught is a significant factor in young people not committing crime.

In a welfarist system there is also a procedural justice problem with only focusing on needs, since an offender from a privileged background with few social problems would 'get away with' an offence while their poorer, troubled friend would receive more interventions. Similarly, there is unfairness in a severe offender with few adverse conditions receiving a lesser intervention than a minor offender with a range of problems; in other words, there can be a perception that there is no proportionality.

Instead, we argue for a new approach based on the idea of prevention of crime being the primary goal, while ensuring that this engages with public discourse and the desire for fair consequences for offenders, victims and communities. This would create a new discourse for talking about youth crime that moved away from the polarised language of 'tough, punish, yob' on the one hand, and 'welfarist, liberal, tolerant' on the other.

The new approach to youth crime would draw on the ideas of community and restorative justice. As we will discuss in the next section, the practice of community and restorative justice combines a risk-based approach with an emphasis on the offender repairing the damage done to the victim and the community. Research has found a positive resonance with the public, combining fairness and truth with putting things right, fixing the damage or righting a wrong (Rethinking Crime and Punishment 2004).

If it works in Scotland, it can work here

If this all sounds theoretical and idealistic, then it is worth looking north of the border to observe the discourse of the current minority Scottish Nationalist Party whose emphasis is on preventing crime and tackling the causes. An obvious example is in Glasgow where the SNP-supported preventative and diversionary 'Enhanced Policing Plan' has achieved drops in crime – while the unsuccessful Labour candidate called for tougher crackdowns and more use of custody. The rhetoric of the Scottish Executive Justice Secretary Kanny MacAskill contrasts with his Westminster counterpart's:

'Young people are more likely to be a victim of crime than they are to commit a crime. We know that the vast majority are well behaved and a credit to their communities but we do need to tackle the small minority that cause problems. Our recently published Youth Justice Framework set out our approach for trying to make sure fewer young people

are affected by the three 'Ds' of drink, drugs and deprivation that lead to a life of crime. It's based on prevention and early intervention with a focus on all relevant agencies working together to protect young people.'

(Kanny MacAskill, quoted in East Renfrewshire Council 2008)

It should be noted that, while pursuing popular preventionist policies for youth justice, the SNP does not call for a welfarist approach. In particular, the anomaly of the very low age of criminal responsibility (8 years old) in Scotland is not a target for SNP reform. Crucially, the party argues that it can achieve its popular preventionist policy aims without changing the age of criminal responsibility, which would play into the hands of the penal populists trying to portray them as soft on crime. As an alternative to increasing the age of responsibility, the SNP is strengthening the tiered and diversionary system, while focusing on tackling the causes of offending – 'drink, drugs and deprivation'.

A new local approach, with the community at its heart

These approaches to offending also put the community at the heart of the justice process, which has the potential to overcome difficulties arising from the remoteness of our current system from the public. There needs to be more to the new approach than a technocratic or utilitarian focus on effectiveness. Too often in the past, across public services, the focus on ‘what works’ and the increasing professionalisation of welfare has meant that professionals and technocrats have taken over responsibility for community safety, with the unintended consequence of increasing the distance between communities and law enforcement and increasing the reliance on criminalisation and formal processes. The lack of community engagement in justice undermines the legitimacy of the justice system, and so reduces trust and ultimately effectiveness.

On the contrary, public confidence is crucial to the effective functioning of the criminal justice system, which is unlikely to reduce offending behaviour without engaging with communities. Enabling a community collectively to control the behaviour of its members is key to achieving improved public safety and reducing both crime and the fear of crime. It has always been true that without certain minimum levels of trust by the communities they service, agencies from the police to courts and offender management cannot do their job. Police need victims and witnesses to report crimes and to cooperate in their investigations; courts need jurors and magistrates to volunteer their time, and their decisions need to have legitimacy with the public; agencies responsible for punishment and rehabilitation need the public to trust that they can keep them safe.

Currently public confidence in the criminal justice system is generally low. The criminal justice system is often criticised for failing to look after victims, witnesses and their associates. Agencies such as the police can be very popular. But the public know very little about criminal justice, and having contact with the police actually lowers user confidence. Lower trust leads to reduced confidence in services and reduced likelihood of cooperation, particularly among minority communities. Lack of confidence also appears to fuel fear of crime and more punitive attitudes. On the other hand, some evidence suggests that increasing knowledge of the criminal justice system increases people’s confidence and reduces misconceptions about its leniency. ippr has previously published research in this area that sets out the case for community engagement in justice more fully (see Rogers 2005). In particular, ippr has demonstrated that trust correlates with familiarity in the criminal justice system.

Community and restorative justice do more than this, however. By bringing members of the community into active participation they give the community ownership of the justice process. This empowerment destroys myths and emphasises what works. One meaning of ‘restorative’ justice is that it restores offenders to the community; likely to be a highly effective way of persuading them not to re-offend, and persuading the community to collaborate in their rehabilitation.

A broader definition of ‘youth’

The current England and Wales ‘youth’ justice system has a narrow designation of ‘youth’ – ages 10–17. In other words, it is about a system for dealing with children. This leads to an abrupt ‘cliff edge’ of the 18th birthday when the system stops focusing on developing non-criminal behaviour and focuses even more on punishment. However society’s definition of ‘youth’ is broader, with young people remaining dependent on parents until their early twenties. Neurological and behavioural development continues until the mid- to late-20s, as discussed in this project’s previous report (Margo and Stevens 2008). We do not recommend that the age of criminal responsibility is raised – young people need to be held and helped to be responsible, and politically such a proposal would be counterproductive. But we argue that the developmental approach proposed in this paper, based on diversion and community and restorative justice, should be extended to youths in transition to adulthood.

4. Can a new direction be preventative?

This chapter draws on the principles of a new approach to youth offending to develop a set of policies and systems that would make the youth justice system focused on reducing victimisation by diverting young people away from crime, changing behaviour and involving communities. We call this system ‘tiered and diversionary’. In practice this means diverting young people away from the criminal justice system, as well as from crime, and into alternative systems that will deliver effective punishment and rehabilitation. To satisfy the need to tailor interventions to the level of offending, the proposed system is tiered (Margo and Stevens 2008).

We have argued in this report that there are insufficient alternative routes outside the youth criminal justice system for dealing effectively and proportionately with youth anti-social behaviour and non-severe offending. In the tiered and diversionary approach the criminal justice system would still play a role in tackling youth offending, but would focus on offenders who are a danger to the public or who have proved resistant to alternative approaches. More effective, community-rooted approaches would be used for non-severe offending, allowing the use of courts and prisons for severe crimes.

Tier 1

At the basic level, we envisage a partnership of local agencies and the community working together on a preventative strategy. As outlined in this project’s previous report (Margo and Stevens 2008) recent government approaches to youth crime have been over-reliant on interventions such as anti-social behaviour orders (ASBOs), without any accompanying support to tackle the causes of behavioural problems. Mechanisms like ASBOs have also been linked to the criminal justice system: breaching an ASBO constitutes a criminal offence (even if the breach itself was non-criminal behaviour, for example entering a certain geographical area), with the potential for a custodial sentence. Rather than intervening early to tackle the causes of anti-social behaviour, the impact has often been to lower the threshold for criminalisation to include legal but anti-social behaviour and to focus on coercive interventions (that control or deter, such as curfews and exclusion zones) and expressive justice (such as publishing photographs of children with ASBOs). As we have discussed, the evidence shows that coercive approaches tend to be ineffective or counter-productive. (See Margo and Stevens 2008 for a discussion of the need for a broader range of therapeutic and family-based interventions.)

A new approach would continue to see anti-social behaviour as a legitimate reason for intervention. However, the aim would be to identify and tackle the factors leading to the behaviour. Anti-social behaviour intervention would be a form of targeted support to prevent behaviour developing into crime. A key principle must be to have an approach which pools resources and information between the different agencies and focuses attention on ways of identifying children’s behavioural problems before they become entrenched. In Denmark, each local area has an ‘SSP’ – which stands for ‘schools, social services and police’ – that is responsible for youth welfare and dealing with poor behaviour. SSPs work together locally to identify children with potential problems. The ‘schools’ part includes leisure-time activities, as most Danish schoolchildren stay on site for after-school activities. Children with behavioural problems, in school or outside, can be provided with extra services to tackle their problems with a multi-agency approach. This approach has, in turn, influenced approaches currently being trialled in Scotland (see box, next page).

Other parts of the UK have also attempted to develop alternatives to the criminal justice/ASBO approach. In South Wales, Chief Constable Barbara Wilding has led the implementation of a graduated approach to anti-social behaviour with ASBOs and the criminal justice system used as a last resort. Young people getting involved in anti-social behaviour receive the response most appropriate to them. This may be a verbal warning, a letter home or a visit from a police officer and a teacher. Existing powers such as individual support orders can be used without resorting to more coercive ASBOs. As in East Renfrewshire, the early intervention and diversion from anti-social behaviour is part of a wider strategy including positive activities, the introduction of a non-emergency anti-social behaviour reporting telephone line that has reduced the number of inappropriate 999 calls made to the police,

East Renfrewshire's SSPC approach: Schools, Social services, Police and Community

East Renfrewshire is a small authority on the outskirts of Scotland's second city, Glasgow. Figures from 2005 showed that young people were responsible for 85 per cent of street drinking crimes, 82 per cent of vandalism and 13 per cent of violent incidents. Seven established 'gangs' operated in the area and were involved in violence and anti-social behaviour (Harrington 2007).

Following a visit to observe the Danish Schools, Social services and Police approach, the youth offending and children's services in East Renfrewshire developed a new partnership between schools, social services, police and community departments – which they called the 'SSPC approach'. The new partnership was set up to enable the different agencies dealing with youth behaviour to pool problems, expertise and resources. The partnership developed a strategy to tackle the causes and effects of youth behaviour at four levels:

- *Prevention* – developing 'soft skills', Sure Start and Family Centres, school-based teams, community involvement and effective public relations.
- *Diversion* – network of leisure/community services, activities and support for young people at risk.
- *Early intervention* – Young Person's Referral Group agrees prompt multi-agency responses to community concerns (including police referrals).
- *Specialist intervention* with offenders, using statutory measures where necessary.

Working in partnership ensured that agencies could share information about young people at risk of becoming offenders in the future. In practice, the main 'engine room' of the SSPC approach was the Young People's Referral Group. This is a multi-disciplinary group of professionals drawn from all the partners who assess cases of young people identified as being 'at risk', or who are displaying early signs of criminal behaviour. The Referral Group meets every three weeks to assess whether a young person would benefit from specific interventions, for example family therapy, educational support, diversionary activities or supervision.

This approach has a number of benefits. By working together, young people whose behaviour is causing problems or shows signs of potential future offending are less likely to slip through the net. In practice, this

approach enables agencies to bring forward interventions for young people who might otherwise be ignored. Rather than being a 'tolerant' approach, this system actually lowers the threshold for intervention. But it reduces reliance on the formal processes such as ASBOs, police charges and referrals to the Children's Reporter or Sheriff's court. A police officer, teacher, care worker or housing officer can deal with youth behavioural problems proactively without relying on the criminal justice system. East Renfrewshire is moving towards the kind of early intervention and diversion model that this report advocates.

The Young People's Referral Group is the central part of a wider strategy of the SSPC in East Renfrewshire. Other elements include street work with groups of young people where they congregate, for example a mobile football pitch can be assembled where young people are hanging out. The SSPC works with groups as well as individuals – for example, a problem of anti-social behaviour on buses by a group on one estate was addressed with a 'meet the drivers' event, in which young people were able to talk to the bus drivers and understand the harm they were causing. Another key part of the strategy is to engage the public and to improve the perception of young people in the area.

Results

It is not possible to say definitively that the new SSPC system has on its own led to improvements in behaviour. But a qualitative evaluation in 2008 recommended the approach be explored across Scotland (Hurley *et al* 2008), and the local authority reports promising results coinciding with the introduction of the new approach.

'[The number of] people caught with offensive weapons, including knives, is down 21 per cent from 122 in 2005 to 96 in 2007. Referrals to the children's reporter have dropped by 31 per cent from 212 in 2005 to 145 in 2007. Vandalism was down from 1,846 incidents in 2005 to 1,563 incidents in 2007. There was a reduction in persistent offenders during the period studied with East Renfrewshire having one of the lowest and most improved results in Scotland.'

(East Renfrewshire Council 2008)

and measures to reduce ‘glassings’ (physical attacks in which drinks glasses are used as a weapon) by changing the materials used in city centre bars.

Other areas should draw on the successes of South Wales to create alternative approaches to anti-social behaviour. Although the local area has, as a result, not met its targets to increase the number of offences brought to justice or hand out more ASBOs, it is one of few police areas to have reduced the flow of young people entering the criminal justice system. It has also achieved a 60 per cent non-reoffending rate (Wilding 2008). The graduated approach is now being spread to other areas of Wales.

These examples demonstrate that it is possible to implement a proactive but diversionary approach to anti-social behaviour in the UK that can be politically viable if effective. The examples also show that early intervention in anti-social behaviour should be tackled by a multi-agency, inter-disciplinary partnership. Rather than relying on the police, acting alone, to deal with anti-social behaviour (which too often occurs in coercive interventions), a multi-agency partnership would ensure that developmental interventions were targeted at an early stage. Referrals could be received from a range of settings including schools, care homes, youth clubs, public transport operators and housing associations. Ordinary members of the community could even have a path for referral – for example if a group of ten residents identified a young person or a group whose behaviour was causing concern they could make a community referral.

This first tier would generally be intended as the main approach for early intervention in anti-social behaviour and some minor anti-social crimes such as graffiti, vandalism or minor fighting. Some young people who are involved in anti-social behaviour or minor crime could also be referred ‘up’ to tier two.

Tier 2

The first tier approach to early behavioural problems described above is not sufficient on its own to address the problem of young people being drawn into the criminal justice system. Although anti-social behaviour has been a high-profile issue recently, the ways of dealing with actual criminal behaviour are still unsatisfactory in that there are no intermediate steps between the anti-social behaviour system and the criminal justice system. For minor and medium-severe criminal behaviour, we need an approach that is more victim-focused than the mainly welfarist process outlined at the first tier, yet does not bring young people into the criminal justice system. To achieve this, the principles of reparation and community accountability should be integrated at this level.

Community and restorative justice ideas have increasingly attracted the interest of academics and policymakers for the past decade or more. Rather than being a specific policy, restorative justice has been described as a set of principles:

‘Though “restorative justice” is best understood as one aspect of community justice... restorative justice might be loosely characterised as justice that brings together (usually but not always, face to face) those with a stake in a conflict – disputants, victims and offenders and their associates, and representatives of the community at large – with the aim of

- *establishing its causes and consequences*
- *agreeing on ways of making amends and repairing harm done (restitution)*
- *identifying means of preventing similar offences occurring in the future.’*

(Rogers 2005: 12)

Community justice encompasses restorative justice, but also includes other forms of community-based approaches to holding offenders to account and addressing the risk factors in future offending. Restorative justice is a form of community justice, in that it uses lay members of the community rather than professionals who are part of the formal criminal justice system. For further discussion of these concepts and examples from practice, see a previous report by ippr (Rogers 2005).

Reforms since 1998 have introduced community justice for most first-time convictions in the youth courts, apart from the most serious offences. Offenders given a ‘referral order’ are required to meet with a youth offending panel of two local community representatives and a youth worker to agree a contract of actions to repay the damage caused by their offence and to address the risk factors that

might lead to future offending. The victim – where there is one – is also invited to attend the meeting to give his or her side of the story and suggest reparations. The contract is then monitored and support provided to the offender to fulfil the commitments by the end of the referral order's duration (three to 12 months).

Inevitably, there have been teething problems and regional differences in how well referral orders have worked, in particular in achieving victim attendance. However, they have been generally viewed as a preferable way of dealing with non-serious offending, with high completion rates and relatively low re-offending records (Rogers 2005).

We would highlight three weaknesses of the current system. The first problem is that the profile of referral orders is still very low. Members of the public who are not panel volunteers are unlikely to be aware that young offenders are being held to account in this way by their local community, and that they can be required to 'pay back' to the victim and the community for the effects of their offending. The lack of awareness means that the potential improvement in the legitimacy of non-custodial sentences has not been achieved. The public and media still think of non-custodial disposals as a 'let-off' when in fact they should be very challenging for the offender, and should put power in the hands of the community itself.

The second problem is that referral orders are made by the criminal courts, and thus can be seen as a form of punishment, rather than a true alternative approach that can divert young people away from criminalisation. Referral orders thus may not avoid the problems of stigmatisation and labelling that are associated with arrest, charge, prosecution and trial in a criminal court. Therefore it may be argued that this is not true community justice but a tag-on at the end of the traditional criminal process.

Thirdly, the scope of referral orders has, until recently, been restricted to under-18s and to first court convictions where the defendant pleads guilty. Given the success of community justice in general – and referral orders in particular – these approaches should be extended to older youths and for subsequent non-severe offending.

Referral orders are just one way in which restorative community justice principles are being implemented in youth justice systems. New Zealand has famously pioneered a restorative justice approach for young offenders since 1989 using family group conferences as the main approach. This innovation has stimulated change closer to home, e.g. in Scotland and Northern Ireland. In Northern Ireland, restorative justice has been introduced more systematically through the restorative conferencing process. The restorative conference – or a meeting held between a person responsible for a crime, the victim and other members of the community – has been more thoroughly integrated in Northern Ireland as an alternative to the traditional criminal justice system. Rather than being reserved as a disposal at the end of the police and court process, restorative justice is the main way in which offending is dealt with (Criminal Justice Inspection Northern Ireland 2008). While restorative justice is less a feature of the Scottish youth justice system, it also provides lessons for England in the sense that the majority of young offenders (up to 16 years old) are diverted to the children's hearing system, which has strong elements of community justice. Only the most serious young offenders are prosecuted in the criminal courts in Scotland (although a weakness of the system north of the border is the treatment of 16- and 17-year-olds as adults).

Given the success of a diversionary approach to offending within the UK, this is the path of reform that England and Wales should follow. We argue that England and Wales should introduce a much wider and more integrated system of community justice panels as the standard approach for minor to medium-severity offending. The formal criminal justice system should be reserved as a last resort for serious offending, rather than as the default for non-severe youth crime.

As discussed, we have taken a deliberately broad approach to the definition of community justice. This should allow for more tailored processes to be developed for different types of offender. As a recent major review of the evidence has shown, different types of community justice process work for different kinds of people (Sherman and Strang 2007). For example, restorative justice works better with crimes involving personal victims than for so-called 'victimless crimes' (such as possession of drugs). For those types of crimes, more educational, treatment and risk-focused interventions, based

in the community, would be more effective than a victim-focused approach. A range of diversions, including different types of restorative justice and other approaches, should therefore be available, under the rubric of community justice panels.

It is important that community justice is not seen as a 'let off' for young offenders, or a signal that society tolerates crime. That it is not is suggested by two considerations.

First, it can lead to more offenders being identified and dealt with. When restorative justice has been used as a diversion away from the formal criminal justice system – for example in projects in New York and Canberra – it has led to twice to four times as many offences being 'brought to justice'. In Scotland, where there is a tiered approach to youth offending (although not community justice per se), rates of formal processing of young people have increased, suggesting that greater confidence in the process leads to more young people being held to account than in England (Bottoms and Dignan 2004). If agencies other than just the police can refer a young person to community justice then it can lower the threshold for intervention without the damaging effects of criminalisation. In conjunction with 'tier one' above, this approach could mean a more activist approach to behaviour problems before they have become more serious.

Second, it can be more challenging than the traditional criminal justice system. By focusing on the individuals enabling community members to confront them with the consequences of their behaviour, community justice can be more difficult for the offender than the depersonalised, procedure-focused court process. Faced with local community volunteers it is difficult for offenders not to engage genuinely in the issues of their offending and its consequences, as well as discussing the (sometimes intensely personal and painful) requirements for progress out of misbehaviour.

Community justice panels can also serve usefully as a method for dealing with wider youth behavioural problems. For example, the SSPC partnership described at tier one could 'refer up' to a restorative or community justice panel if it was felt that being challenged by community members and focusing on the impact of their behaviour on victims would be an effective approach.

Restorative justice can be effective even with serious crimes. In fact evidence from scientific trials suggests restorative justice seems to reduce offending more effectively with more, rather than less, serious crimes, and those with a more obvious victim (Sherman and Strang 2007). Restorative justice is also more consistently effective with violent crime.

Restorative justice can also be more effective than incarceration in reducing reoffending in young adult offenders. For example, a Canadian study found that restorative justice had a much lower reconviction rate (11 per cent) than prison (27 per cent) for that age group. Whereas at present referral orders are only available (as a disposal of the criminal court) for 'youth offenders' in England (10- to 17-year-olds), the evidence suggests that it should be extended as an alternative to custody for adults (Sherman and Strang 2007). It is also claimed that there could be a greater role for restorative justice in custody and resettlement.

The evidence on the effectiveness of restorative justice for serious crimes and young adults needs to be balanced against the wider objectives of the youth justice system – including the need for public protection. We will argue that the option of criminal prosecution and custody needs to be retained for certain kinds of offending (see below) and also for political legitimacy. There is, therefore, a good case for saying that community justice is a 'tough' option. This case needs to be made to the public. In order to do this it will be important to communicate community justice as being a tough option, and to engage the community in order to ensure it is as legitimate as the criminal justice system. There will need to be a concerted effort to promote community justice. As discussed, referral orders have been under-sold to the public who still tend to view anything other than custody as a 'let-off'. As community justice is extended from being a disposal of the criminal justice system to the mainstream approach to dealing with most youth crime, it will have to be communicated effectively to the public.

There are many ways in which this can take place. For example, successful case studies where young offenders had been able to stop offending and become contributing citizens could be communicated through the media or directly through posters and adverts. Victims' stories of how the offender had

repaired the effects of their crime could also be promoted. These would need to match the simple narrative of a criminal being caught and punished by imprisonment, and would have to tell stories about individuals rather than present statistics, which lack public credibility. Community justice would need to enter popular culture.

This would best be achieved insofar as community justice became embedded in the community, with a diverse range of representatives involved in negotiating the actions that the offender has to follow. A problem in some areas is that current youth offending panels, the active citizens who implement restorative justice, are often not representative of the community. One approach might be to make community justice panels even more localised than the current local authority area. However, this could lead to problems in recruiting enough people, or in situations where the panel members are likely to know (or come into contact with) the offender and their associates outside the panel setting. Local areas would need to find a wider range of ways in which community members could get involved in community justice, for example, consulting communities (and groups within them) on how different offences should be repaid by offenders.

There would also need to be other improvements to the current processes for referral orders. For example, better communication with victims will be crucial to ensure that they participate where that is appropriate and the benefits for them are realised. There are also more innovative ways in which victims can benefit from community justice than in face-to-face mediation or directly provided reparation (for example, digging the victim's garden). One local youth offending team has explored working with a TimeBank project. Offenders contribute a number of hours of voluntary work to the TimeBank, accruing a number of credits that can be redeemed by the victims. This approach should be piloted formally.

The involvement of local people in community justice could also create a pool of advocates and champions. Although their involvement as volunteers would of course be anonymous if preferred, those who were interested in promoting the successes of community justice could be engaged in activities from speaking at community meetings to political conferences, school assemblies and talking to church-goers or local media liaison. Local opinion leaders could also be engaged by those administering community justice, either to be involved themselves or to promote the work (building on the success of SmartJustice, the campaign based at the Prison Reform Trust, in engaging Women's Institutes in calling for penal reform).

The community justice approach can only be expected to have a limited impact unless it is underpinned by a range of effective interventions to tackle the risk of the offender committing further crime. In the case of existing referral orders, these interventions are the responsibility of the youth offending team, and this provision may need to be strengthened and broadened in its application. These interventions should be based on the evidence of effectiveness, as outlined earlier in the report. In brief, offenders should receive 'developmental' interventions that tackle their specific risk factors; relate to the level of offending; take place in community settings; respond to offender learning styles; tackle multiple needs; and develop cognitive, behavioural and inter-personal skills. As well as focusing on the individual, community justice processes would have the opportunity to address wider factors in local young people's lives. These would include family, school, peer group and community-based interventions. Community justice should therefore be a gateway to a range of effective, well-run interventions. Community justice panels would be trained and advised as to the effectiveness and appropriateness of different interventions.

Tier 3

The community justice interventions described above would not have universal application. In particular, they depend on the offender cooperating with the process. Offenders may be likely to cooperate with the community justice process if their guilt is uncontested. They will also be motivated if community justice is offered as an alternative to a more punitive criminal system. We thus follow the evidence in recommending the introduction of community justice (including restorative justice) for at least medium-severity offences, including violent crime. More serious offences, including those which involve danger to the public, should still be dealt with in the criminal courts. However there is still a

class of offences which while not suitable for community justice can be dealt with at a lower level of formality than in the criminal courts.

In Scotland, severe offences can be prosecuted in the criminal court. Non-severe youth offenders are dealt with in a relatively welfare-orientated children's hearing system. But the process depends on the admission of guilt by the child, so that the hearing can focus on dealing with the causes. There is another interim process for non-severe offences where guilt is contested, based in the sheriff's court. This is a less formal process than the adult criminal court, with a basis in civil rather than criminal law. When dealing with non-severe cases that would normally be addressed at a children's hearing, sheriff's courts do not set the sentence themselves. The sheriff focuses on establishing guilt or innocence. The young person is then referred back to the children's hearing if guilt is established (Bottoms and Dignan 2004).

A similar system could be implemented in England and Wales for cases that could be addressed by community justice panels but where guilt is contested. Because community justice panels are not courts of law, trials would need to be heard in a more formal process. However, the current criminal youth court system is not fit for this purpose – a broader issue which will be addressed later in this section. Its primary focus is on the establishment of guilt, rather than on addressing the causes and making reparations.

We propose, therefore, that non-severe crimes where guilt is contested should be heard by a civil youth court. These would not have sentencing powers; such powers would be reserved by the community justice panel and the court would concentrate purely on establishing guilt. The advantage of a civil court process would be that it is less formal and confusing for those involved; that it would have a greater focus on the victim as a 'plaintiff' represented by the prosecutor (rather than the victim being excluded by a 'crown prosecution'); and it would use a civil standard of proof, in other words that guilt would have to be established as a balance of probability, rather than proved beyond reasonable doubt.

The justification for this lowering of the burden of proof for non-severe crimes is that the young person would not be labelled a criminal as a result, and would then be referred back to a second-tier community justice panel to agree measures to address causes and pay-back to the victim and community. In effect, therefore, this proposal offers a new, 'fair deal' for youth justice – a lower standard of proof for a more problem-solving approach for non-severe crimes. Since the community panels focus more on the problems in the young person's life, there are benefits to the defendant of accepting this trade-off. For victims and communities, it would ensure that more offences were brought to justice without the negative impacts of a criminal justice approach.

As discussed, these ideas draw on the equivalent process in Scotland of the sheriffs' courts and children's hearings operating in parallel, one focusing on guilt and one focusing on treatment. The introduction of an equivalent system in England and Wales, with youth civil courts and community justice panels, would be an innovation in tackling youth crime. We believe that it would improve on the current, single-tier criminal justice approach. However, it would need to be phased in with a series of pilots to establish how it could work in practice.

The introduction of an extra layer into our tiered approach increases its complexity and raises questions about the rights of the defendant to a trial with a criminal burden of proof. While we argue that this represents a fair deal, some elements of the current system could be retained as a choice for defendants. Therefore, if a young person were accused of an offence they denied, they could have the choice of a civil youth court hearing or a criminal youth court hearing. The latter would have a higher standard of proof, but would bring with it a more formal process and a wider range of more punitive sentences and a criminal record if guilt were established.

Tier 4

Notwithstanding the above proposals, we do not go so far as to argue that there should be no recourse to criminal justice for children and young people. This is partly due to political considerations – citizens are not prepared to raise the age of criminal responsibility because they perceive that as

sending a signal that youth crime is acceptable. But it is also because of the wider aims of the youth justice system as discussed, which include holding offenders to account and achieving justice for victims. Therefore we argue that the criminal justice approach – based on trial in a youth criminal court – would still be available, but would be reserved for offenders who pose a threat to society and whose crimes could not be dealt with by a community justice panel legitimately to the satisfaction of victims and the public. The youth criminal court would also, as discussed, be available as an option for defendants (as the crown court is an option for adult defendants).

Under the proposed tiered system, the youth criminal court would deal with a caseload in which a higher proportion of cases than at present would be serious, since most other cases would be diverted to community justice or civil youth court. Both custodial sentences and community sentences (with strong elements of support) would remain available. Cases that do not require relatively high level sentences could be ‘referred down’ to community justice and the civil court tier, rather than being dealt with at the criminal court level. However, although we argue that there should still remain a criminal court option for severe offenders, we do not believe that the current court process is fit for purpose. The rest of this section discusses the problems with the youth court processes and proposes solutions to ensure that youth justice focuses on reducing future victimisation.

Delivering this vision of a reformed youth court system requires a range of further reforms to improve information available in making decisions, focus on protecting young people and the public and ensure appropriate specialisation. In particular, if the youth justice system is serious about tackling future offending rather than just blindly processing offenders, then there needs to be a consistent feedback of information throughout the system. All agencies in the youth justice system should know how well they are contributing to the objective of reducing offending. This may involve setting up new systems to monitor ex-offenders in order to track their status within six months, one or two years, which may provoke concerns about surveillance and civil liberties. However, since the aim of future monitoring would be to improve efforts to reduce crime (including, where the evidence shows, reduced use of formal criminal proceedings and custody), the overall impact would be to improve civil liberties for victims and ex-offenders (Audit Commission 2004).

It might also prove controversial with magistrates if it meant that data were collected and published that showed the re-offending rates of offenders sentenced in their courts, which could be perceived as a threat to their independence. Youth courts are not open to the public, but their decisions are crucial to the delivery of reducing re-offending, as well as determining the allocation of significant public resources (not to mention the denial of freedom). Transparent information on performance would improve accountability, which is necessary to safeguard independent decision-making. Better feedback should be welcomed by magistrates in order to improve their decision-making. It could also reduce the pressure from the media and public opinion to pass tougher sentences for their own sake. Currently 43 per cent of magistrates say this pressure influences their decisions (Audit Commission 2004).

As with the existing target, the systematic measurement of re-offending could take into account the circumstances of the ex-offenders so that performance can be compared with the predicted future offending rate. But it should also take into account the frequency and severity of offending. A systematic approach focusing on re-offending would also improve the quality of evidence on the impact of different approaches. This would enable the youth justice system to evolve on the basis of what works, rather than on the basis of political whim or professional fashions.

Youth courts must also have a new focus on child protection. Criminal courts do not have the power – or expertise – to identify protection needs and enforce action. This means – to take a real example – that a trafficked child convicted for crime such as shoplifting, who may have committed the crime for their trafficker – could be discharged from court without any assessment of their safety. A radical approach to this problem would be to reverse the separation of the protection and criminal court systems implemented in 1989. Magistrate and penal reform campaigner Chris Stanley has been advocating this for several years (see, for example, Bond 2000). This would mean that the same institutions and workforces would be dealing with cases where children were at risk and where they had been charged with a crime. This would have the advantage of shifting the ideology of the youth

criminal courts to focus more on the needs of, and risks to offending children. Generalist juvenile courts would be able to place vulnerable offending children under the protection of social services. This change could, however, require major restructuring that would be highly costly financially and in terms of time. There could also be opposition from child protection groups who might see that the stigma of child protection procedures could be increased and at-risk young people could feel labelled as criminals.

There may be more immediate and less complicated solutions to this problem. Without removing the distinction between the criminal and protection systems, youth criminal courts could be given greater protection powers to ensure that at-risk children can be referred for a protection assessment that then reports back to the same court, or a child protection court. There are potential risks with this approach, particularly where there is a shortage of social workers working with children who can make the relevant assessment and in turn a lack of foster placements to care for those children. There is also a fairness issue whereby being caught committing a crime enables a child to somehow receive higher priority than a child who is equally at risk but has not been arrested by the police. These issues would need to be addressed, but the main point remains – there is a loophole whereby vulnerable children come into contact with the authorities but, because of the criminal focus of the youth court, their risks are not addressed. This has been described to us as being a Victoria Climbié or Baby P waiting to happen.

Finally, reformed youth courts should be more specialist and professional. Rather than being a system staffed by professionals with an expertise in working with children, youth courts have effectively become a less professional, lower-skilled corner of the legal system. Although youth courts are legally separate from the adult criminal system, judges and advocates in the youth court do not need to be specially trained or qualified. Moreover, since youth courts are not open to the public and media, they are less scrutinised than adult courts. They have therefore become a ‘safe’ institution. For example, young prosecution and defence solicitors both use the youth court as a training ground to learn advocacy skills before ‘graduating’ to the adult justice system. This implies a disregard for the seriousness of the impact of the youth court experience on young people’s (or victims’) lives. While a young solicitor’s mistake can be a useful learning experience for them, it could lead to a criminal conviction, loss of liberty and reduced chances of leading a successful life integrated into society. Magistrates and judges who work across both adult and youth justice systems could bring the same, more punitive and less problem-solving approach of the adult court to the youth system. The implication of this trend is that young people accused of an offence are more likely to be victims of a miscarriage of justice.

While we still agree that there should be a criminal justice process for children and young people, we argue that the system should be more distinct from the adult justice system and should have a specialist workforce that is trained in working with children. The youth court should not be seen as ‘lower’ than the adult court, or as a safe training ground for solicitors. Before being able to represent or prosecute a child, a solicitor should have to achieve specialist qualifications demonstrating knowledge of the youth justice system and skills in communicating with children.

Furthermore, the inequality of representation in the youth court should be redressed. Those defending children accused by the state of a crime should be as experienced and skilled in the law as those prosecuting. As mentioned, one of the reasons for the low status of youth court work is that it is not open to public or media scrutiny (except under strict controls). There are debates about whether the youth courts (criminal or family/child protection) should be made more transparent. Options that should be considered include independent inspection or publicly nominated observers.

One idea might be to ensure that there is more accountability for a case that is not heard because of an unnecessary delay (for example due to missing files or evidence not submitted to the defence). At present the only recourse for the court is to reprimand and write to the culpable party (be it the prosecution or defence), and there is little incentive to ensure a case goes ahead. But these delays have real costs. A more effective solution might be for the court to charge the relevant party for some of the cost of the delay. This approach is used in other public services, for example charging the infrastructure company for delays to trains, or charging local authorities for delays in discharge from

hospital. Continuing with the current inefficient and procedurally unjust system serves neither the achievement of justice for victims, nor value for money, nor effective reduction of re-offending. It would also do little for young adult offenders.

New non-custodial sentences, prioritising work-based interventions

There are already a number of effective community interventions which can be used by youth courts with young people who offend. The next reforms will introduce a scaled approach where these are combined in one multi-option order that can then be tailored to the precise risks associated with any one offender. This approach has the benefit of being more understandable for magistrates, offenders, victims and the public and can ensure that interventions are personalised to tackle future re-offending. The aim is also to move away from a ladder of sentences, whereby each time an offender re-offends they move up the ladder, whether or not the higher tariff sentence is more proportionate or effective.

It will be important to ensure that the new system has credibility with victims, communities and the general public if it is going to successfully replace the current high use of custody. However, the aim of making community sentences tough-looking should not override the aim of ensuring that they are effective. At present, many of the alternatives to custody place a large emphasis on control and supervision – for example, placing electronically monitored tags and curfews on offenders and requiring intensive supervision in order to control offenders rather than address the causes of offending. The coerciveness of community sentences is likely to be a factor in their relative lack of success – while custody is still more damaging to the risk of future offending, non-custodial sentences involving such restrictions are not far behind.

Making community sentences more work-orientated may be one way in which the aims of ‘toughness’ and effectiveness can both be achieved. Lack of structured activities, poor skills and self esteem are all risk factors that work-focused interventions could address. At the same time, requiring offenders to undertake work appeals to the punitive demands of the public and could replace the pressure for more use of custody. Work experience has been an important part of the rehabilitation of young people in custody. For instance, projects offering practical experience to ex-inmates have been in operation in recent years; the National Grid-led Youth Offender Programme is an example (The SMART Company 2007). These projects focus on providing skills and useful experience to enable young people to turn their lives around. There seems no reason why a similar approach could not be adopted with non-custodial sentences.

The Danish ‘Spearhead’ system

Work is rarely explored as an alternative to custody. ‘Community service’ is not an option for young people and would place too much emphasis on non-constructive punishment such as painting walls or cleaning streets. Without a focus on skills-development, work as a community alternative to custody is unlikely to be effective. However, a project in Copenhagen, Denmark called ‘Spyspidsen’ (‘Spearhead’) has developed a programme of community-based work-experience placements for young people not in education, employment or training. Linking young people’s skills and ambitions with local small employers, the project also accepts referrals from criminal courts for young people (over the age of 15) who can undertake a placement as an alternative to custody. Placements are part time and paid at the minimum wage up to the level of benefit entitlement. The rest of the time, participants are offered

catch-up lessons in basic skills such as literacy and numeracy.

The project has so far been positively evaluated, although only through a qualitative study (measuring employers’ and young people’s completion and satisfaction with placements). But an important element in the project is its cross-party popularity. Politicians of both the right (including the far-right Danish People’s Party) and the left (except the Communist Party) have endorsed the approach as both focusing on improving welfare and tackling risks of future offending, and also requiring ‘feckless’ youth to work constructively rather than laze around in custody or on benefits.

We recommend that a similar approach, focusing on work as an alternative to custody, could provide a way through the continuing problem of perception of public and political desire for custody and of community alternatives as being a ‘let-off’.

Stronger local and national partnerships and a new commissioner model

The tiered approach outlined above, and the reforms to youth courts, would require significant structural reform to the existing system in order to create more localised, community-rooted and diversionary institutions. Although structural reform can be costly and delay change, as we have argued throughout this report the current reliance on the youth criminal justice system alone militates against an effective preventative and popular alternative approach.

The principles set out in the previous chapter emphasised the need for greater community engagement and localism in youth justice (and in criminal justice more broadly). This principle should underpin new organisational structures. As discussed, local areas should create SSPC-style partnerships so that agencies can work together with the shared agenda of youth crime reduction. These would need to work closely with existing crime and disorder reduction partnerships but would have a more specific focus on risk factors.

A localist approach to youth justice should be explored as an alternative to the top-down targets system. Youth justice budgets – including allocations for prevention programmes, diversion, court servicing and community sentences as well as resources currently allocated centrally to custodial institutions – could be devolved to local areas. Local bodies could be established as independent youth justice trusts (similar to primary care trusts for health) or under the auspices of existing youth offending teams or children’s trusts. The bodies responsible for managing the funds would need to have substantial operating freedom within appropriate financial management standards. They would also be held accountable to the local population, either through some form of direct or indirect election or representation, or scrutiny by existing elected local authorities, or both.

Some of these ideas are already being explored in a programme overseen by the International Centre for Prison Studies, which is applying lessons from the American concept of ‘justice reinvestment’. Their recent report (Allen and Stern 2007) highlights the potential benefits and drawbacks of this approach for the whole criminal justice system. There is currently an inquiry into justice reinvestment being conducted by the Commons Justice Select Committee.

We would lend our support to the further exploration of this approach, in particular for the youth justice system where there is already a multi-agency approach and some local infrastructure in youth offending teams that could be built on. Local areas would then be responsible for allocating resources on prevention, rehabilitation and punishment, including custody places that would be locally commissioned and funded. This would create a system that was more locally-focused and able to respond to the varying needs of the community, rather than purely on central targets. Importantly, it would create a more realistic approach to the distribution of resources for youth justice. Trusts would need to work out a more holistic strategy for reducing crime and re-offending in their locality. It would allow them the freedom to innovate with local programmes (as has already happened in some areas, such as Wales) and learn from the successes of other areas. It could also improve local engagement and trust in youth justice decision-making. There are opportunities to integrate prevention, rehabilitation and punishment initiatives into existing local programmes for education, youth services and social cohesion. As Allen and Stern argue:

‘If it is possible to bring together the activity to make a neighbourhood safer and more cohesive with the work of dealing with the individuals who are in trouble with the law, effectiveness should be considerably enhanced.’

(Allen and Stern 2007: 45)

Again, these ideas run into controversy when the decision-making points are analysed. Much of the distribution of existing youth justice budgets is currently determined by sentencing decisions by magistrates, whose independence is rightly guarded. The ‘localist’ approach to youth justice could apply to spending on treatment programmes, the characteristics of the community sentences available to the courts, pre-court interventions and prevention programmes. This on its own would be a step forward. However, the development of a more localist approach to governing and financing youth justice could open up a debate about the accountability of the resource decisions that magistrates

make when they choose a more expensive custodial sentence rather than a cheaper (and potentially more effective) community sentence. After all, such decisions to impose custodial sentences or remand account for two-thirds of the total youth justice programme spending (Youth Justice Board 2007).

From a resource-efficiency point of view, not to mention an effectiveness or moral standpoint, there is a need to ration the use of custody for young people. Courts need to be transparent and accountable, as well as independent, in their decisions. Lessons would need to be learned from the current much more advanced reforms to commissioning in health, where the capacity of local primary care trusts to commission intelligently is being driven through the World Class Commissioning programme, while nominal budgets are also being devolved to practice-based commissioners. The key enabler, in health and in youth justice, is more sophisticated feedback of information on the performance of different parts of the local system.

At a national level there is also more need for coordinating machinery that enables but does not direct improved local performance. Here, too, lessons could be learned from Denmark, where a national Crime Prevention Council (the DKR) brings together representatives from the full range of organisations involved in reducing offending. The Council is able to agree policies and protocols, share good practice and influence change locally without having to go through the slow and centralised structure of central government.

We have argued here for long-term structural changes to embed the preventative, tiered and diversionary approach. However, the role of structural change is only to allow changes in practice and behaviour to be introduced. Many of the reforms suggested could be developed within the current framework of institutions. Policymakers and local leaders should not wait until structural changes have been designed and implemented before introducing new community justice alternatives.

5. Will the public support popular preventionism?

This section explores attitudes to youth crime in the UK, and tests a more progressive, tiered and diversionary approach to replace the current model of tough punishment and control. To examine this issue ippr commissioned deliberative workshops, carried out in London, Nottingham and Birmingham, to explore public opinion in relation to three core questions:

- What are people's initial views on young people, youth crime and the justice system?
- To what extent do people's views evolve once they are exposed to different levels of information on this topic?
- To what extent do people opt for a tiered and diversionary approach to youth justice?

The findings and quotes reported below result from these workshops. See Annex 1 for details of how the workshops were conducted.

Attitudes to youth and youth crime

Youth offending is a widely discussed issue with much conflicting coverage dominating the media. According to a national survey carried out by King's College London, 42 per cent of those polled believed that half of all crimes were committed by young people. This compares with official statistics that suggest that the percentage of crime committed by young people is more likely to be somewhere between 10 and 20 per cent. The survey also showed that 64 per cent claimed that media reports had informed their views (Hough and Roberts 2004).

Initially when asked about the term 'youth' all participants in our ippr-commissioned workshops equated it to crime, and came up with negative words such as 'threatening', 'gangs', 'knives' and 'damaged'. However, participants in London and Birmingham also made positive associations such as 'enthusiasm', 'our future', and 'misunderstood'. All participants agreed that youth crime is a serious problem and is getting worse. In Birmingham, however, some participants claimed that there have always been problems with youth crime but the difference now is that the media sensationalises it.

'There is an awful lot of media...media is a lot more intrusive, I wouldn't be surprised if proportionally there wasn't much more crime.' (Male, Birmingham)

When asked about the age at which a child can take full responsibility for their actions, most participants suggested from 10 or the start of secondary school.

'I think they are street wise earlier, learn rules younger than I did.' (Male, Birmingham)

'Somebody at 10 is intelligent enough to know.' (Male, London)

'A 10-year-old knows the difference between right and wrong.' (Female, London)

However, there was recognition that a child's development depends on their upbringing and that a child may not always be emotionally developed:

'Children can't always control their emotions.' (Male, London)

There was a contradiction in how participants referred to young people in different contexts. When the participants focused on the actual offence committed, they were more inclined to talk about the perpetrator as an offender rather than as a child. However, at other times, they would focus on the fact that a child is still emotionally immature. Overall, participants found it hard to disentangle negative and punitive attitudes provoked by the offence itself from a natural compassion they felt towards young people whom they still perceived as being children.

Participants made reference to the fact that they were also young once, arguing that things were different in years gone by – that there was more respect. The term 'respect' was repeated throughout the workshops. Being able to relate to young people in terms of their own youth had two different

effects: it made participants intolerant of the perceived lack of discipline, especially in comparison with how things were before. It also made some participants sympathetic towards what it is like to be young.

There was a sense that youth crime has become something that young people are proud of. Participants suggested that rather than being scared of doing something wrong, young offenders actively seek out opportunities to commit offences. There was a sense that current youth culture has turned young people's values upside down, making crime seem like an attractive option and the youth justice system unthreatening.

'A lot of them, when they do something [crime], they're proud of it.' (Male, London)

'ASBOs are seen as a badge of honour.' (Female, Norwich)

'There's too much freedom, they get away with too much.' (Female, London)

There were mixed views towards children throughout all the workshops so it was unsurprising that when we presented different ways of dealing with youth crime we received varied responses from the participants. Some participants felt that young people can still be turned around if they are given the right support:

'To treat them so harshly so young hardens them and makes them worse in the future.' (Female, Norwich)

However, a large number of participants dismissed the idea that putting a young person from a young age through the criminal system can have a detrimental effect on them. On the contrary, some argued that young people may be better off in prison. There were also mixed feelings towards the idea that a young person under the age of 21 can still be changed for the better.

'They got a better education because they were inside... They benefited from being inside.' (Male, Norwich)

'We think they are developed way before 21.' (Female, Birmingham)

Attitudes to the youth justice system

Participants' initial views on the youth justice system were negative: that the system is ineffective and that it has failed to deter young people from committing crimes.

'The main thing is that they are not punished enough.' (Male, London)

'There are no consequences to what they do; they just think they can get away with it; there is no comeback on them.' (Female, Norwich)

The criminal justice system was criticised for its weakness and lack of toughness. However, the main criticism focused on its weak application, rather than on its design.

'The system seems sensible, but it is the application of the system and the Judges that are too lenient...there is something wrong with Judges who treat kids too lightly.' (Male, London)

'On paper it looks quite good but I don't think in practice it works.' (Male, Birmingham)

'Deterrents need to be tougher...when I was a youngster you were scared of doing something wrong.' (Male, Norwich)

There was also a feeling that for a system to be effective it needs to instil a level of respect and fear in young people.

'People should be scared of the police.' (Male, London)

'I find that in Germany people are more law abiding. We don't want to be a police state but there should be more respect.' (Male, London)

'Community policemen get laughed at.' (Female, London)

'Prisons are such an easy life.' (Female, Norwich)

Participants felt that if the system were tougher and instilled more fear and respect, it would be more effective at discouraging young people from committing crimes in the first place.

Different responses are appropriate for different offences

After setting an initial baseline on people's initial attitudes to youth crime and the youth justice system, we started filtering different information and ideas on the topic to explore how people's views could develop. When participants were asked to decide whether an offence should be classified as minor, medium/serious or very serious/severe, all agreed on which offences were severe but there was discrepancy between medium and minor offences.

All participants agreed that minor offences should include offences that do not cause harm to individuals. Medium offences were defined as those that have a cost of some sort, whether financial, physical or otherwise. Severe offences included those which cause serious harm to individuals.

'The minor ones don't hurt anyone.' (Male, London)

There were mixed views about whether 'possession of a knife' was a medium or a severe offence. Some participants felt that possession of a knife could be justified if used for self-defence or work. Others felt there was no justification for carrying a knife.

'It is the same thing as a gun.' (Female, London)

'I'm not sure. If someone's had someone harassing them a lot and they fear for their lives then what should they do?' (Male, London)

The majority agreed that different offences should get different responses according to the level of gravity and number of previous convictions of the offender. Some participants felt that all offences should get the same initial treatment.

'A crime is a crime...' (Female, Norwich)

'At the start they should get the same response as any minor or medium one could escalate into a serious one.' (Male, Norwich)

Participants felt that responses to offences needed to be tough enough to act as a deterrent.

Responsibility for youth crime should be shared

Participants allocated responsibility for youth crime to a wide range of parties. However, most of the responsibility was allocated to the media, peer pressure, lack of discipline, government, parents, schools, alcohol and drugs.

The media were thought to have a dual impact on young people. On one hand, the media show too much violence, tempting young people to copy violent behaviour. On the other hand, some media coverage glorifies youth crime to young people:

'They see things in the press that they aspire to.' (Male, London)

Parents and schools were thought to be responsible for instilling discipline and supporting young people. Participants said that if young people are exposed to violence at home they see that as a way of life.

'Parents have a very big influence on how the child is progressing and going through life.' (Male, Birmingham)

The Government was seen to be responsible for youth crime for various reasons, including the justice system being ineffective, and a lack of opportunities in terms of education, skills and jobs for those who do not opt to go to university. The Government was also blamed for taking away authority from parents, teachers and schools.

'There are no apprentices any more.' (Male, Birmingham)

'When it comes to education and opportunities, the Government thinks 50 per cent should go university but there are not enough opportunities for others.' (Female, Birmingham)

'There are not enough places for teenagers to go to keep them active.' (Male, Norwich)

'They [government] cut back on things below the bare minimum, like with the police – they haven't got enough people to do the job.' (Female, Norwich)

There was criticism of the role played by some individuals and organisations – who were deemed 'do-gooders' – that defend the rights of young people. They were considered to obstruct tough approaches to youth crime.

'The Government's up against all the do-gooders.' (Male, Birmingham)

It was also argued that young people's 'ignorance' is part of the problem:

'Do they really understand the consequences of their actions?' (Male, London)

So significant contradictions can be seen in the participants' attitudes. On the one hand, they felt that a young person can take responsibility for their actions from a young age (10), while on the other there was an acknowledgment of the limitations imposed by their age. It seemed difficult for participants to reconcile hostile feelings towards an individual committing offences (especially those that cause damage to others) and the fact that many of the young people they referred to are still children.

The opportunity to make amends is welcomed but not for severe offences

We presented participants with statements representing different approaches to tackling youth crime. These were 'tough', 'welfarist' and 'tiered/diversionary' approaches, as discussed above in this report. An element of the tiered/diversionary approach was that offenders should make reparations to victims and communities outside the youth criminal justice system.

Participants were very keen on the idea of community payback, but not for severe crimes. They welcomed the idea that an offender committing anti-social behaviour could be reprimanded by making amends to the community and the victim. There were mixed views on whether this could be dealt with outside the youth criminal justice system.

'Make the punishment fit the crime.' (Male, London)

When severe offences were discussed participants did not opt for the community payback option. It was felt by some that severe offences should receive tough, even corporal, punishment to match the gravity of the offence.

Communities and schools are not able to deal with crime

There was frustration at how the system is perceived as paralysing adults, preventing them from interacting with young people and intervening when they do something wrong. Participants believed that teachers in particular occupy a difficult position, as they are prohibited from interacting physically with children. The example was given of how even when a child falls in the playground, teachers are not allowed to touch them.

'In past generations when police and teachers had more authority there was less crime...and now it is all softly, softly...' (Male, London)

'It all goes back to school, they don't get reprimanded by teachers, and if they [teachers] are harsh then they'll get prosecuted.' (Female, Norwich)

Many felt in particular that adults had no power over young people, and believed that parents no longer set boundaries for their children. Participants felt disempowered and disrespected and unable to turn things around in the current climate where government puts great emphasis on protecting children.

'Adults are made to feel guiltier.' (Male, London)

'The Government doesn't have a clue. They're the ones that are responsible for bit by bit, taking away the authority of teachers and police, et cetera.'
(Male, London)

'Schools and parents don't seem be able to do anything.' (Female, Norwich)

There was little faith in the community's ability to deal with youth crime. Participants felt that in an ideal world where there was a strong sense of community it would be good for the community to be involved. They were nostalgic, perceiving communities in the past to have been stronger and parents, schools and police to have had more authority. In particular, participants did not like the idea of the community dealing with serious crimes. They were concerned that the community would be unable to be unbiased.

'Families and neighbours would be biased...' (Male, Norwich)

Some participants expressed that serious crimes require corporal punishment.

A tiered system increases support for a more progressive approach

Initial attitudes demonstrated that the term 'youth crime' is loaded with negative connotations which led participants to be more inclined to opt for quite a tough response. However, these attitudes evolved once we provided participants with more information on the context of different offenders and offences, which is not usually information that people are party to. We know from previous ippr work that providing the 'context' is an essential part of promoting a more progressive approach (Newman and Lewis 2007). A fuller picture of the offender can make people consider that there may be other reasons for committing an offence than the idea that offenders are simply 'bad' people.

In order to provide participants with the context of offences we presented them with three, fictional, case studies and options for tackling them. The context provided a basic background on the offender in terms of their family life and previous convictions. The options outlined represented three approaches for tackling youth crime including soft/welfarist, tough/punitive and tiered/diversionary approaches. This was a turning point in the workshop, as a more sympathetic perspective among the participants came to light. Providing the context of each offender affected the participants' perception of each case study. Overall, participants in each case deliberated about options, and after discussion, were found to be in favour of an approach which sought to find mechanisms to divert young people from the criminal justice system. (See Annex 2 for a detailed discussion of the results of these case studies.)

6. Conclusion

This report has four main thrusts. Youth justice, at present not succeeding in reducing reoffending, should be reshaped so that it

- operates at more levels in society, to match levels of offending and anti-social behaviour;
- relies more on prevention and less on coercion;
- avoids young people being drawn into the formal criminal courts system wherever possible;
- is more trusted by the public.

Thus it should be *tiered, preventative, diversionary* and *populist*.

The report also argues that the remit of the youth justice system should not stop at 17. The suggested new community justice alternatives should be available to older youths (e.g. 18-21) and to young persons accused of subsequent non-severe offences.

Recommendations for improving the effectiveness of the existing youth courts

Tiered

- Establish a new lower level (Tier 1) of youth justice which aims at preventing, and confronting, anti-social behaviour and low-level offending; involving new partnerships rooted in the community and drawing in all the agencies with influence on the experience of young people, based on SSPCs (multi-agency school, social services, police and community councils) such as exist in Denmark and East Renfrewshire, and young people's referral groups
- Establish an intermediate level (Tier 2) with community justice panels to deal with non-severe offences, using restorative justice principles (similar to existing referral order panels)
- Allow SSPCs and youth referral groups to refer individuals to community justice panels
- Establish a new type of Scottish-style civil youth court (Tier 3) alongside the existing youth courts, operating at a lower burden of proof, as an alternative for defendants who admit guilt and are not accused of serious offences; these courts to have strong links with community justice panels.

More preventative and less coercive

- Introduce preventative measures at local level through the SSPCs
- Introduce a graduated approach to anti-social behaviour so that a proportionate response (letter or visit from a police officer or teacher) can be used initially with low-level bad behaviour (based on the approach taken in South Wales)
- Pilot systems in which budgets for youth justice are devolved locally, removing responsibility for youth custody commissioning from the Youth Justice Board, to ensure the costs of custody are weighed against more cost-effective non-custodial approaches, which are also likely to do more to reduce re-offending.

Diversion from arrest and the criminal court system

- Allow referral directly to young people's referral groups and community justice panels without prior involvement with the courts, so that non-serious offenders are diverted from the criminal courts
- Divert some offences to new civil youth courts
- Allow individuals convicted by the new civil youth courts to be referred to community justice panels for sentencing.

More trusted by the public

- The new lowest tier (Tier 1) and community justice panels at Tier 2 to be based in the local community so that local residents can engage with it, e.g. by referring young persons to youth referral groups
- Pilot the introduction of new TimeBank-style volunteering systems, enabling the public to see that community sentences are not an easy option for offenders, and victims can receive recompense, if preferred, without contact with the offender
- Maintain and improve (Tier 4) the existing criminal courts system for serious offences.

Effectiveness of existing youth courts (Tier 4)

- Improve courts' understanding of the effects of their decisions by introducing a new requirement to ensure that information on re-offending is provided to magistrates' courts with the data adjusted to take into account predicted levels for different types of offender
- Introduce further requirements ensuring that other agencies – including youth offending teams and police units – receive systematic feedback and data on the effectiveness of their interventions
- Allow youth courts to refer criminal cases to the family court (focusing on child protection) where there is a concern for the welfare of the defendant
- Introduce new training requirements to ensure that judges and advocates are properly trained in working with children and young people
- Review the pay, conditions and professional status of youth court workers to ensure that working in the youth court is not viewed as a low-status alternative to working in adult courts
- Review sentencing guidelines to strengthen community sentences, including examining the introduction of work-focused community sentences, with a focus on providing young people with structure, improved skills and increased self esteem
- Pilot Danish-style 'Spearhead' projects in England and Wales, requiring offenders to engage in constructive, paid work experience and catch-up classes.

Annex 1: Deliberative workshop methodology

Deliberative techniques bring together a broadly demographically representative sample of the population including groups ABC1C2DE (see next page for definitions). They are held over a longer period than focus groups in order to enable people to develop their opinions as they are presented with different materials or arguments. This shows whether and how views change, and what arguments and information have most impact. It also provides a forum in which participants can challenge each other as people with different backgrounds and views debate a topic together.

For this study each of the workshops was three hours long and was designed for 12 participants. The format of the workshop combined group discussions on youth crime and a range of exercises, exposing participants to different ideas and information on the topic (see Annex 2).

Participants were asked to complete an individual survey at the beginning and end of the workshop to see if their views had changed during the workshop.

Recruitment

Each workshop was recruited using market research recruiters. The participants were selected to be roughly representative of their local area in terms of gender, age, ethnicity and socio-economic background.

There is research evidence that supports the view that deliberation tends to reduce internal diversity and lead to more extreme views (Schkade *et al* 2006). Therefore, we aimed to avoid recruiting participants who would have strong views on the topic by not recruiting people who had direct links to it. This meant avoiding young people under the age of 25, or people working in some capacity with young people.

Three workshops were carried out, in London, Norwich and Birmingham. Because of the small number of workshops undertaken location was not a key factor in the sampling.

The dates of the workshops were 10 June (London), 11 June (Norwich) and 12 June (Birmingham), 2008. In Birmingham and London participants were paid £60 to attend and in Norwich £50.

Participants' demographic characteristics

Participants: London

The group consisted of:

- Six females and five males (one male was unable to attend)
- Social classifications: 2B, 3C1, 4C2, 1D, 2E
- Age range from 28 to 65

Participants: Norwich

The group consisted of:

- Six males and six females
- Social classifications: 2B, 2C1, 3C2, 3D, 2E
- Age range from 25 to 67

Participants: Birmingham

The group consisted of:

- Six males and six females (one female was unable to attend)
- Social classifications: 3B, 2C1, 3C2, 2D, 2E
- Age range from 25 to 67.

Social classes		
Social grade	Social status	Occupation
A	Upper middle class	Higher managerial, administrative or professional
B	Middle class	Intermediate managerial, administrative or professional
C1	Lower middle class	Supervisory or clerical, junior managerial, administrative or professional
C2	Skilled working class	Skilled manual workers
D	Working class	Semi and unskilled manual workers
E	Lowest level of subsistence	State pensioners or widows (no other earner), casual or lowest grade workers

Annex 2: Deliberative workshops discussion guide

6:30pm Refreshments and food

6:35pm Welcome participants and explain the project:

- Introduce each member – we work for a research company
- We are here to find out people's views about youth crime.
- The workshops will involve going through different information and facts. There will be a mix of discussion as a full group and discussion in smaller groups as well as individual work.

Before we start

- We are neutral – not here to influence your views but to find out what your views are.
- We are not expecting people to be experts – we're not trying to catch people out or test their knowledge.
- There are no right or wrong answers. We are not experts ourselves but just researchers finding out people's views on this topic.
- This material can be quite technical so if you get confused please ask. I am not an expert in this field but will try to clarify any questions.
- We also do not want people to say things because they think they should – we want people to be honest and comfortable disagreeing with each other – this is a safe environment to do that, we won't get personal.
- All your views really matter to us. Please respect each other's view – even if you disagree.
- Please turn off your mobile.
- Timing – we will finish on time! We have a lot to get through so I may have to hurry you at times, but I am not being rude.
- You can be sure your views and comments will be kept completely anonymous in final survey.
- Xxx will be taking notes and we would like permission to record.
- We may wander around to listen in but please ignore us and carry on your discussion.

6:40pm Warm-up, ice breakers and introductions

Participants should spend one or two minutes talking to the person next to them before introducing each other to the full room.

6:50pm Questionnaire

Participants individually complete a survey on youth crime.

Before we get into any discussion I'm going to ask you all to spend five minutes completing a survey individually – it's important that we capture your individual views on some of the things we are going to be talking about. Please be completely honest – we will treat this information confidentially.

7:00pm Group discussion to gauge how much people already know about youth crime and what views, experience or attitudes they have of it.

I'd like to start by getting a sense of what people think about young people:

- What comes into your head when you hear the term 'youth' (any words or phrases)?
- What age do you think young people become fully independent developed adults? When do young people become responsible for their actions? Why?

I'd like to get a sense of what people think about youth crime:

- What comes into your head when you hear the term 'youth crime' (any words or phrases)?
- Are there particular aspects of youth crime that concern you most?
- Is youth crime getting better or worse? (probe – is it a big or small problem?)

Facilitator to provide a definition of youth crime and explore reactions:

Youth crime consists of criminal offences carried out by a young person. Under the law this includes young people from age 10 to 18.

Criminal offences include things like graffiti, assault, theft and dealing drugs.

Anti-social behaviour (ASB) includes a variety of behaviour covering a whole complex of selfish and unacceptable activity that can blight the quality of community life.

Examples include:

- Nuisance neighbours
- Rowdy and nuisance behaviour
- Yobbish behaviour and intimidating groups taking over public spaces.

Facilitator to read out definition and ask:

- Does this make sense?
- Are there questions that the information raises/that you want to ask?

We are now going to explore what you know about the youth justice system

- Do you know the minimum age a young person can be charged for a crime/prosecuted? (probe – Why do you say this? How do you know?)
- At what age does a young offender become adult in law? (probe – Why do you say this? How do you know?)
- Do you know how youth crime is currently tackled? What makes you say this?
- How are youth offenders currently treated by the law? (probe – Why do you say this? How do you know?)

Facilitator to provide a definition of youth justice system and explore participants' reactions

Youth justice is society's system for dealing with young people who break the law. The youth justice system has different courts (called youth courts) where, for example, there is no public or media access. The youth justice system also has a different range of sentences for youth offenders that take into account, to some extent, the fact that children and young people are still developing and focus on tackling the causes of their offending. Under-18s have separate prisons from adults.

Under the age of 10 children cannot be prosecuted for a crime.

After their 18th birthday young people are treated as adults in the adult court (Magistrates' Court or Crown Court – with a jury). They are given fewer chances to improve their behaviour and have tougher punishments that do not aim to tackle the causes of their behaviour.

The youth justice system includes a variety of processes including:

- Public information campaigns e.g. on knife crime
- Police patrols, stop and search and arrest
- Anti-social behaviour orders (ASBOs) and dealing with them when they are broken
- Cautions and prosecutions of young people
- Hearings in the criminal youth court
- Community sentences e.g. curfew orders (tags), supervision and reparation ('payback')
- Custodial sentences (i.e. youth prison)

Facilitator to read out definition and ask:

- Does this make sense?
- Prompt: what are the strengths/weaknesses of the system?

7:25pm Defining youth crime

We would like to find out your views on a range of criminal offences.

Sorting cards exercise:

Divide group into three groups of four and provide them with cards (each card will outline a different offence). Ask people to discuss each offence and classify under three categories: minor crime/anti-social behaviour, medium/serious and severe. When deciding on how to classify each offence participants must think about its causes: why and what has led young people to commit these offences?

Minor crime/anti-social behaviour:

- Graffiti on school walls
- Verbal harassment
- All-night party disturbing neighbours
- Personal possession of cannabis
- Peter (13 years old) had an argument at home with his foster mother. After leaving his house in a rage he kicked and broke a public dustbin
- Ali (15) got into a fight after school with another boy, causing a nosebleed.

Medium/serious:

- Julie stole DVDs from a supermarket. When she was arrested she struggled and kicked a police officer
- Breaking car lights
- Theft of a bicycle
- Possession of a knife
- A group of boys pushed around a younger boy on his way home from school. One of the boys, Leon, stole his bike and rode off with it

Very serious/severe:

- Armed robbery
- A 19-year-old young man raped a 16-year-old young woman after a party

- A group of teenagers stabbed a teenager with broken glass during a fight. The victim died.

Three groups to feed back how they have sorted cards and reasons for their grouping.

Group discussion: Do you think there should be different responses to different offences (probe – should all be tackled in the same way? Or should there be a softer and harder approach according to offences? Why?)

7:45pm Responsibility: The spider of youth crime

In the previous section we discussed what constitutes youth crime and the youth justice system. We now want to explore your views on who and what is responsible for causing youth crime.

Divide participants into three groups of four participants to discuss and draw a spider diagram with youth crime in the centre. Each leg of the spider of youth crime should represent someone or something that is fully/partly responsible for youth crime in the UK. Think about this in relation to the offences we discussed in previous section.

Groups to feedback explaining different legs of their spider diagram.

Facilitator should probe on the following elements:

- Why do you think youth crime happens? (probe – what is making young people more prone to committing crimes? Why?)
- Who is responsible for youth crime? (probe – are young people responsible? How responsible are parents? Communities? Societies as a whole?)
- Who is responsible for tackling youth crime? (Is it police/court or anyone else? Should it be the responsibility of parents? Communities? Society as a whole?)

8:05pm 5 minute break for refreshments

8:10pm Tackling youth crime

I'd like to find out people's views on what the main priorities for tackling youth crime should be.

Divide participants in three groups of four. Ask participants to discuss each of the statements listed below for tackling youth crime. Using the scale provided, participants should decide in their pairs whether they agree or disagree with each element and explain reasons.

- The law is the law. All young people over the age of 10 who break the law should go through the criminal system of police and courts. This should be the case even for minor crimes.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- The criminal system of police and courts should only be used as a last resort for serious crimes. Instead the community (e.g. families, neighbours, churches, schools, youth services) should be involved in holding offenders to account.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- The criminal system of police and courts should not be used for children/young people until they turn 16 (currently 10). Children's behaviour is caused by social problems so we should improve children's welfare rather than punish them.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- If a young person commits anti-social behaviour we should force them to make amends to the victims and community and tackle the causes of their behaviour (for example by considering their home/school life). This should be done outside the criminal justice system as far as possible.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)

- Young people are still developing up to 21 and can still 'change for the better' given the right tools, so non-severe offenders should be dealt with outside the criminal punishment system.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- Serious young offenders should be dealt with in court with custodial sentences (prison) for those who are a danger to society.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- If young people go through criminal system from too young an age (i.e. 10 years old), even for minor crimes, then this will label them as criminals making them more likely to re-offend later in their life.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)

If time allows, facilitator to test reactions to:

- Children are too young to be held responsible for their actions. We should raise criminal age to 16.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- We should be tough on all crimes, whether they are 'minor' or serious, even if the levels of young people being arrested and entering the criminal justice system for minor offences goes up.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- The criminal system of police and courts is expensive so it should be used as a last resort.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- We should tackle crime before it happens.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- If a young person commits anti-social behaviour we should issue them with an anti-social behaviour order. If they continue behaving anti-socially they should be arrested and sent to court.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)
- Courts should deal out tough prison sentences for youth criminals to make an example and satisfy the victim.
Place in scale from 1 (strongly disagree) to 5 (strongly agree)

Groups to feed back to the whole group: discussion on each element and reason why people agree or disagree with them.

8:45pm Testing a new approach to youth crime

For the rest of the evening we are going to discuss three case studies of youth crime and three options for tackling them.

Divide participants in three groups of four. Participants should read and discuss three case studies and options provided. They need to decide which option they would take and the reasons why. Groups to feed back.

Case study 1

James is 17 years old and comes from South London. James dropped out of school a year ago and has been moving between foster/care homes since he was 13. He has fallen in with a bad crowd and started taking hard drugs. He has previous convictions for various offences including graffiti, vandalism and joyriding.

He has just been arrested for robbing (taking approximately £100) and assaulting a newsagent. The victim had to go to hospital.

Option A

James gets sent to a youth criminal court and gets a six-month intensive supervision order. He has to attend a scheme every day, where he works intensively on education and training, and interventions to tackle his behaviour and improve his interpersonal skills, such as anger management, literacy skills, work experience as well as drug rehab. He also has to 'pay back' for his crime by having a mediated meeting with the victim (or his representative) and doing some voluntary work. James also receives support to find housing and work.

Option B

James gets sent to a youth criminal court and gets a custodial sentence (youth prison) for six months. While he is there he has to undertake manual work. Under 'honest sentencing' rules he will have to serve at least the full term, and longer if he does not behave in prison.

Option C

James's case is heard by a youth criminal court. On hearing about his social problems, James is given a Rehabilitation Order. This focuses on addressing the causes of his offending. He has to meet with the local youth offending team weekly to tackle his behaviour and improve his interpersonal skills, for example anger management and literacy skills. He is provided with drug rehab in the community.

Group discussion: Any questions? Which approach do you think would work best? Why?

Case study 2

Mary is 18 years old and comes from Wales. Mary is a student at a local vocational training college, where she is studying for NVQs (GCSE level). She has to care for her sick single mum and three younger brothers and sisters. She has never been convicted before, but she had an ASBO when she was younger.

Mary and her friends intimidated Daniel (a 13-year-old schoolboy from the same area) while he was in the street listening to his MP3 player. Mary snatched the player and walked away. When Daniel followed them to get the player back he was pushed and verbally abused and threatened by Mary and her friends.

Option A

Because she does not have a history of offending, Mary receives a police caution for her offence. Her case is assessed by a social worker. Because of the problems in her home life, Mary is provided with an extra support package provided by social services including housing support, respite care and counselling for stress.

Option B

Mary's offence is heard by a community panel (formed by members of her local community, the victim's representative and a youth worker). Mary has to 'pay back' by returning or replacing the MP3 player, apologising to the victim and his family and volunteering at a childcare centre. She also has to address the causes of offending by attending consequential thinking, anger management and peer pressure sessions with a youth worker from a local charity.

Option C

As she is legally an adult, Mary gets arrested and sent to an adult criminal court. Because of a high number of robberies in the area, courts have been told to send a message on violent crime. Mary gets a 'short, sharp shock' – an eight-week 'boot camp' sentence run by ex-soldiers – to teach her and others a lesson.

Group discussion: Any questions? Which approach do you think would work best? Why?

Case study 3

John is 12 years old and comes from Newcastle. He has no previous convictions. He has recently had his bicycle stolen.

John lives with mum Jane, a single parent, and three brothers in a two-bedroom flat on an estate. He has been misbehaving in school, bullying classmates and not doing homework. John has started hanging around with a group of older boys. Local residents find the group intimidating and have made complaints about graffiti and vandalism on the estate, for which the group have been warned. One evening in the summer holidays they got drunk and vandalised a school outbuilding.

Option A

John gets issued an anti-social behaviour order (ASBO). His picture is published in the local newspaper so that members of the public can identify him if he continues to hang out on the streets. John also gets expelled from school to set a clear example of zero-tolerance to fellow pupils. John is still out on the streets in the evenings. He is reported by a local resident for hanging out with the same group of boys, some of whom are drinking. He is arrested for breaking his ASBO and taken to court.

Option B

John's behaviour is accepted because he is not deemed to be breaking any laws. Being under 16, John is not considered to be responsible for his actions. He is assessed by a welfare team in a similar way to Option 2, but he does not have to do repairs to school property as it is felt this would be stigmatising him for something that is not his fault.

Option C

Following his ongoing behavioural issues, John's school decides to talk to John's parents. The school, as part of the local youth behaviour improvement partnership, refers John's case to be assessed by a rapid referral team. The team decides to help tackle the problems in John's life that may be contributing to his poor behaviour, by:

- Enrolling John and his brothers in a range of leisure and community activities.
- 'Parenting support classes' and support with housing are offered for John's mum.
- John is diagnosed with dyslexia and communication problems and is provided extra support and therapy.
- John's behaviour is discussed with his head teacher and parents and he agrees to do some repairs to the school property.

Group discussion: Any questions? Which approach do you think would work best? Why?

Finally: group discussion comparing three case studies: what do people think about the three case studies? Were you more sympathetic towards one in particular? How do the case studies compare against each other? Did you feel that each case study was tackled fairly in comparison with the other case studies?

9:05pm Quick questionnaire

We would like to ask you to do the questionnaire that you did at the start again to see if your views have changed following this workshop.

9:15pm Wrap up

Final discussion on the topic. This is your chance to sum up what you think. You've heard a lot of different things about youth crime and the youth justice system.

- Who/what is responsible for causing youth crime?
- Who should be responsible for tackling youth crime (probe – society as a whole? Or individual communities? Or just individuals?)
- What kind of approach should we use to tackle offenders? (probe – should the approach vary according to the gravity of offences? How?)
- Should communities and agencies (police) work together to help young people away from re-offending?
- How involved should the criminal system of police and courts be in tackling minor/medium/very serious offences? (probe – should we use the criminal system of police and courts as a last resort for serious crime?)

Facilitator explains what happens next with the project (*We're going to do a few more similar groups and write a report on youth crime*), thanks participants and asks if they have any questions for the team or if anyone wants a copy of the report to leave details. Give out incentives.

9:30pm Close

Group discussion of case studies - results

Case study 1

Case study 1 presented James, who is 17 and has previous convictions. James has lived in a number of care homes since he was 13. He has just been arrested for stealing over £100 and hurting someone in the act.

This case study engendered the least sympathy from participants, especially due to fact that the offender had previous convictions and was almost an adult in age. Participants also considered that it was a serious offence because he had physically harmed the victim.

'He is a past offender...we are beyond softly, softly...you don't need to know how to read to know that you don't steal.' (Male, London)

'He is 17 and has hurt somebody...they have to do something and be hard about it.' (Female, London)

Participants resented that this type of offender would get help with housing and work, as was suggested in the 'welfarist' option.

'We don't see that it's fair that he should be supplied with housing and work when other people don't get it.' (Female, Norwich)

However, some participants were still more inclined to use a tiered/diversionary approach because they liked the combination of 'paying back' and helping the offender.

'You don't know his past...he has been in care homes...he's got bad hang-ups...'. (Female, London)

'It sounds like a nice balance of things he has to do – he has to pay back and do things that may help him with his life.' (Male, London)

'If you put him into [the tiered and diversionary approach] at least he has the chance for an education. They have to be given another chance before you bang them up with other criminals.' (Female, Norwich)

Case study 2

Case study 2 presented Mary, who is 18 and has no previous convictions. Mary is a student and cares for her sick single mother and three younger brothers and sisters. She has just been arrested for verbally and physically intimidating a younger boy while snatching his MP3 player.

This case study elicited the most sympathy from participants. Mary's circumstances, especially at home, made participants more understanding of why she had committed this offence. They felt that she had a difficult situation at home and needed support. Most participants opted for the tiered and diversionary approach for this case study. They did not want Mary to lose her place at college or jeopardise her key role as a carer at home.

'She has a caring side – she looks after her family.' (Male, London)

'She needs help...she is under incredible stress.' (Female, London)

'We liked the idea of 'pay back'; we thought it was a more constructive mechanism given her background.' (Male, Birmingham)

Participants were sympathetic towards the fact that Mary had no previous convictions. Significantly, participants did not recommend a more punitive approach on the basis that at 18 she was legally an adult.

'I think it is a blip because it's a first offence.' (Male, Norwich)

'It should be said to her that if she did re-offend she wouldn't be shown the same sympathy.' (Female, Birmingham)

Case study 3

Case study 3 tells the story of John, a 13-year-old school boy with no previous convictions. John lives with his mother, a single parent, and has been misbehaving at school. He has been committing a number of anti-social behaviours with his friends for a while. He has just vandalised a school outbuilding.

This case study was given sympathy from participants. Most of them opted for a tiered and diversionary approach. They took into account John's young age, the fact that he had no previous convictions and that this was not a serious offence.

'You can't give up on a kid at 13.' (Female, London)

'I'd lean towards the [tiered and diversionary approach] – at that age it might sort his problems out.' (Male, Norwich)

'It is amazing the number of children with these problems that slip through the net – he needs understanding.' (Female, Birmingham)

Annex 3: Breakdown of participants

London

Gender	Age	Social class	Occupation
Female	55	B	Housewife
Female	55	B	PA Sec
Female	34	C2	Musician
Female	40	E	Non working
Female	46	C1	PA Sec
Female	65	C1	Retired
Male	58	C2	Car sales
Male	60	C2	Retired
Male	32	C1	Office clerk
Male	45	D	Non working
Male	28	E	Roofer
Male	45	C2	Painter/decorator

Norwich

Gender	Age	Social class	Occupation
Female	25	E	Housewife
Male	25	C2	Carpenter
Male	25	B	Accountant
Female	37	C1	Pharmacy assistant
Male	41	D	Postman
Female	43	E	Housewife
Male	56	B	Retired engineer
Female	54	C2	Boat builder
Female	46	C1	Engineer
Male	55	D	Factory hand
Female	67	C2	Retired heating engineer
Male	65	D	Van driver

Birmingham

Gender	Age	Social class	Occupation
Female	25	E	Unemployed
Female	35	C1	Housewife
Female	52	D	Kitchen assistant
Female	58	C2	Housewife
Female	63	E	Retired
Female	67	C2	Retired
Male	34	B	Buyer
Male	42	B	Engineer
Male	52	C1	Semi-retired consultant
Male	57	D	Assembler
Male	65	B	Retired
Male	67	C2	Retired

Annex 4. Workshop participants' reactions to certain elements of ippr's proposed approaches to youth justice

The elements that were more favoured by participants included:

- If a young person commits anti-social behaviour we should force them to make amends to the victims and community and tackle the causes of their behaviour (for example, by considering their home/school life). This should be done outside the criminal justice system as far as possible.
- Serious young offenders should be dealt with in court with custodial sentences (prison) for those who are a danger to society.

The elements that were less favoured by participants included:

- The criminal system of police and courts should only be used as a last resort for serious crimes. Instead the community (for example, families, neighbours, churches, schools, youth services) should be involved in holding offenders to account.
- Young people are still developing up to 21 and can still 'change for the better' given the right tools, so non-severe offenders should be dealt with outside the criminal punishment system.
- If young people go through the criminal system from too young an age (10 years old), even for minor crimes, then this will label them as criminals making them more likely to re-offend later in their life.

The elements that had a mixed response from participants included:

- The criminal system of police and courts should not be used for children/young people until they turn 16 (currently the age is 10). Children's behaviour is caused by social problems so we should improve children's welfare rather than punish them.
- The law is the law. All young people over the age of 10 who break the law should go through the criminal system of police and courts. This should be the case even for minor crimes.

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